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Christianizing Knowledge: A New Order of Books in the Theodosian Age

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CHRISTIANIZING KNOWLEDGE
A NEW ORDER OF BOOKS IN THE THEODOSIAN AGE

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A DISSERTATION PRESENTED TO THE FACULTY OF PRINCETON
UNIVERSITY IN CANDIDACY FOR THE DEGREE OF DOCTOR OF
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Abstract

This dissertation approaches the rise of Christianity from a new angle: not the Christianization of people, but of structures of knowledge. An intense focus on demographic shifts and doctrinal controversies has traditionally separated classicists from historians of late ancient Christianity. But such a narrow focus occludes an epistemic unity underlying scholastic productions from the Theodosian Age, when Christians became a ruling elite for the first time. The fourth and fifth centuries saw dramatic changes in the way that scholars across disciplines approached the production of knowledge. I engage works of scholarship ranging from Roman juristic writings and legal compendia to Christian theological tractates and conciliar *acta*, grammatical treatises, miscellanies, and the *Palestinian Talmud* in order to explore the ways that imperial Christianity inflected the production of truth even in domains that do no constructive theological work. The rise of Christianity has been described as a change in the content of ancient peoples' beliefs. My work shows how imperial Christianity changed not just what people believed, but how they believed.

The analysis comprises eight chapters. First, I trace the various ways that Christians approached the production of truth in the second, third, and fourth centuries; then the creation of a new paradigm for argumentation by scholars debating the legacy of the Council of Nicaea; and finally the proliferation of a peculiarly bookish epistemology through a diverse array of scholastic domains when Nicene Christians first came to hold significant political power. The final chapters follow a Christianized structure of knowledge from intellectual arguments to the pages of manuscripts passed among scholars in the fourth and fifth centuries. I re-describe the “rise of the code” as a central

node of scholarly production in the context of the bookish preoccupations of Nicene Christians, and I trace Christian scribal practices as they were generalized, de-signified, and reused in “secular” productions like legal codices and late Roman manuscripts of Livy and Vergil. At its core, the dissertation is a study of the epistemic rupture that defines the beginning of Late Antiquity.

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January, 2020

Athens

For my parents, who have always loved me anyway.

Abbreviations

<i>ACO</i>	<i>Acta conciliorum oecumenicorum</i> , edited by Eduard Schwartz, 4 volumes, (Berlin: De Gruyter, 1914–40). Note: conciliar sessions follow the numeration set out by Hefele and Leclercq, <i>Histoire des conciles d’après les documents originaux</i> , volume 2, in two parts (Paris: Letouzey, 1907).
ANF	<i>Ante-Nicene Fathers</i> , 10 volumes (Edinburgh: T & T Clark, 1867–73)
AW	<i>Athanasius Werke</i> , edited by Hans-Georg Opitz. (Berlin: De Gruyter, 1934–)
<i>CI</i>	<i>Codex Iustinianus</i> , edited by Paul Krüger, <i>Corpus Iuris Civilis</i> , volume 2 (Berlin: Weidmann, 1877)
<i>CIL</i>	<i>Corpus inscriptionum latinarum</i> (Berlin: De Gruyter, 1862–)
<i>CMG</i>	<i>Corpus medicorum graecorum</i> (Berlin: De Gruyter, 1927–)
<i>CPL</i>	<i>Corpus papyrorum latinarum</i> , (Wiesbaden: Harrassowitz, 1958)
<i>CSCO</i>	<i>Corpus scriptorum christianorum orientalium</i> (Leuven: Peeters, 1906–)
<i>CSEL</i>	<i>Corpus scriptorum ecclesiasticorum latinorum</i> (Vienna: Geroldi, 1866–)
<i>CTh</i>	<i>Codex Theodosianus: Theodosiani libri XVI, cum constitutionibus Sirmondianis</i> , edited by Theodor Mommsen with Paul Meyer and Paul Krüger (Berlin: Weidmann, 1905)
<i>D</i>	<i>Digesta</i> , edited by Theodor Mommsen and Paul Krüger, <i>Corpus Iuris Civilis</i> , volume 1 (Berlin: Weidmann, 1870)
GCS	<i>Die griechischen christlichen Schriftsteller der ersten drei Jahrhunderte</i> (Berlin: De Gruyter, 1897–)
<i>ILCV</i>	<i>Inscriptiones latinae christianae veteres</i> , edited by Ernst Diehl, 3 volumes (Berlin: Weidmann, 1924–1931)
LCL	<i>Loeb Classical Library</i> (Cambridge, MA: Harvard University Press 1911–)
Mansi	<i>Sacrorum conciliorum nova et amplissima collectio</i> , edited by Giovanni Domenico Mansi, 53 volumes (Paris: Welter, 1901–27)
NPNF	<i>Nicene and Post-Nicene Fathers</i> , edited by Philip Schaff (series 1 and 2) and Henry Wace (series 2), 14 volumes (Edinburgh: T & T Clark, 1886–1900)
<i>Urk.</i>	<i>Urkunden zur Geschichte des arianischen Streites</i> , edited by Hans-Georg Opitz, <i>Athanasius Werke</i> 3.1 (Berlin: De Gruyter, 1934)
<i>PG</i>	<i>Patrologia graeca</i> , edited by Jacques Paul Migne (Paris, 1857–

	1886)
<i>PL</i>	<i>Patrologia latina</i> , edited by Jacques Paul Migne (Paris, 1844–1864)
PLRE	<i>The Prosopography of the Later Roman Empire</i> , volume 1 <i>a.d.</i> 260–395, edited by A. H. M. Jones, J. R. Martindale, and J. Morris (Cambridge: Cambridge University Press 1971); volume 2 <i>a.d.</i> 395–527, edited by J. R. Martindale (Cambridge: Cambridge University Press 1980)
<i>SEG</i>	<i>Supplementum epigraphicum graecum</i> (Leiden: Brill, 1923–)
SC	<i>Sources Chrétiennes</i> (Paris: Cerf, 1942–)

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“...new readers of course make new texts, and their new meanings are a function of their new forms.”

Donald F. McKenzie, *Bibliography and the Sociology of Texts*, 29

Chapter 1 – Christianized Knowledge or, a Beginning of Late Antiquity

E. A. Judge told his mentor A. H. M. Jones that he intended to “find out what difference it made to Rome to have been converted.”¹ Jones had asked the question before, and came up with a succinct answer: “none.”² His answer has not proved persuasive, and the question has occupied historians for as long as critical history has been written. Judge offered a teleological and triumphalist vision of late ancient Christianity that embraces dialectics in service of a higher, “Western” ideal³, while

¹ Edwin A. Judge, *The Conversion of Rome*, 10.

² Judge, *The Conversion of Rome*, 10.

³ “It is not easy to say in individual cases how much is owed to Athens, and how much to Jerusalem. But historically it is this conflict built into our cultural tradition that has brought us to the argumentative, progressive, open societies of the West.” Judge, *The Conversion of Rome*, 19.

Chapter 1: Christianized Knowledge

others, like Brown,⁴ Matthews,⁵ Von Haehling,⁶ MacMullen,⁷ Van Dam,⁸ Trombley,⁹ Salzman,¹⁰ Barnes,¹¹ and Brenk,¹² have queried shifting social mores, the conversion of temples to churches, and Sunday morning head-counts in order to index the impact of Christianity on a baseline “pagan” Roman culture.¹³

⁴Peter Brown, “Aspects of the Christianization of the Roman Aristocracy;”
“Christianization and Religious Conflict.”

⁵John Matthews, *Western Aristocracies and Imperial Court A.D. 364-425*.

⁶Raban von Haehling, *Die Religionszugehörigkeit der hohen Amtsträger des Römischen Reiches*.

⁷Ramsay MacMullen, *Christianizing the Roman Empire*.

⁸Raymond Van Dam, “From Paganism to Christianity at Late Antique Gaza.”

⁹Frank R. Trombley, *Hellenic Religion and Christianization: c. 370-529*.

¹⁰Michele Renee Salzman, “How the West was Won: the Christianization of the Roman Aristocracy in the West in the Years after Constantine” ; *The Making of a Christian Aristocracy*.

¹¹Timothy Barnes, “Statistics and the Conversion of the Roman Aristocracy.”

¹²Beat Brenk, *Die Christianisierung der spätrömischen Welt*.

¹³“Christianization” as an object of study has its detractors, as well. David Hunt, for instance: “Papers and books about Christianising the Roman Empire ought not to be encouraged. The concept is certainly a snare, and very probably a delusion as well. It is so big an aspect of Late Antiquity as to be all but beyond the control of the historian, and admits of so many layers of meaning and varieties of interpretation that

Often, modern scholars have mirrored their skeptical ancient counterparts with this approach to understanding the spread of Christianity through the ranks of Rome's elite. Augustine reports a conversation between Simplician, bishop of Milan, and the renowned neo-Platonic philosopher Marius Victorinus. The philosopher would often say to the churchman "You know that I am already a Christian (*noveris me iam esse Christianum*)," and the bishop would reply "I won't believe or count you among the Christians until I see you in a Church of Christ (*non credam nec deputabo te inter Christianos, nisi in ecclesia Christi videro*)."¹⁴ The philosopher offered a sarcastic response, using the Socratic method to point out the absurdity of Simplician's assertion. *Ergo parietes faciunt Christianos?* "Oh, is it walls that create Christians?" For many scholars aiming to understand Christianity in the later Roman empire, the answer to Victorinus's jest is

it is in danger of becoming meaningless." David Hunt, "Christianising the Roman Empire: the evidence of the code", 143. Emphasis original. For his part, Robin Whelan is among the few contemporary scholars approaching at the question of Christianization beyond simple allegiance. See especially a recent JRS article which "considers how the Christian identity of imperial officials manifested itself when the Theodosian dynasty ruled the Roman Empire in both East and West." Whelan, "Mirrors for Bureaucrats," 76. See also Edward Watts's chapter in *Late Ancient Knowing*, which considers the intellectual history of the process by which a Christian empire could be envisioned, on the premise that "Christianization needed to be imagined before it could be implemented.." Watts, "Christianization," 197.

¹⁴ *Confessions* 8.2(4) Text LCL 26.

“yes.”¹⁵

This dissertation returns to the question of Christianization, and asks “what effect did Christianity have on inhabitants of the Roman empire in the fourth and fifth centuries?” I want to know what difference Christianity made: why did it matter then, and ultimately, why should that history matter now? My method, however, diverges from the classic treatments. Rather than asking after numbers of Christians or moral renewal in late ancient Rome, I investigate the methods by which a meaningful truth claim could be made in a particular moment: during the period of flux when Christians first came to overtake state institutions with sufficient influence to effect a dramatic change on the fundamental structure of meaning-making in the Roman empire. My goal is to understand what effect imperial Christianity had on the epistemology of scholars in the Theodosian era. This is to approach the question of Christianization from a new vantage point—one that finds an answer to the question “What difference did Christianity make?” in shifting structures of knowledge.

I argue that early in the fourth century, Christians adjudicating both sides of the “Nicene controversy” forged new tools for argumentation in the fires of doctrinal controversy. While wrestling over the nature of Christ, these clerics created a fundamentally new epistemic regime: new arguments were made in novel ways. By the time these Christians came into power as a ruling elite in the late fourth century, their

¹⁵ When recounting this story, Peter Brown goes so far as to say “At just that precise moment in Milan, in 386, walls certainly did make a Christian.” Brown, *Augustine of Hippo*, 95.

approach to truth—how it could be accessed, and how it should be presented—was fundamentally different from where it began, and was even more at odds with the prevailing epistemic framework of their Roman Traditionalist neighbors.¹⁶ Nicene Christians had invented a new book culture, but that book culture did not long remain unique to Christian scholars. When Nicene Christians came to power as a political ruling class in the late fourth century, this peculiarly Christian structure of knowledge found its way quickly into the domains of law, history, miscellany, and Talmud. One answer to the question of “what difference did Christianity make?” is this: Nicene Christians, ascending to positions of power, changed the way that an entire scholastic culture approached truth.

This dissertation pays close attention to the intellectual culture of the Theodosian

¹⁶My argument, it should be made clear, bears no relation to the spate of books and articles over the past decade returning to a Gibbon-esque teleology of Christian decline, decrying the rise of intolerance and violence and the failure of “dialogue” during the years surrounding the Council of Chalcedon in 451. On which, see importantly Simon Goldhill, *The End of Dialogue in Antiquity*; and Polymnia Athanassiadi, *Vers la pensée unique*. For a strenuous rejoinder to the latter, see Sébastien Morlet, *L'Antiquité tardive fut-elle une période d'obscurantisme? À propos d'un ouvrage récent*. More nuanced analyses of the issue of dialogue in Late Antiquity can be found in Richard Lim, *Public Disputation, Power, and Social Order in Late Antiquity* and a useful counterpoint in Peter van Nuffelen, “The End of Open Competition? Religious Disputations in Late Antiquity.”

Age.¹⁷ My conception of intellectual culture is described well by Carlo Ginzburg's conception of culture itself. "Culture offers to the individual a horizon of latent possibilities—a flexible and invisible cage in which he can exercise his own conditional liberty."¹⁸ This is the concept of intellectual culture that I invoke here: a cage, or a series of expectations, constructed through generations of precedent. The outline of the cage has an externally coherent logic; it was created in a particular place, with a particular shape, for historically contingent reasons. When later inhabitants forgot (or never learned in the first place) why the cage took this particular shape, the logic undergirding the cage quickly moved into the domain of historical knowledge. The cage defines the boundaries of proper knowledge production. It can be flexed and punctured in places, but at least for the extent of the Theodosian age, it remained identifiably intact.

It is possible to glimpse epistemic expectations in two places. They are visible where scholars positively discuss what their work sets out to accomplish, and what constitutes the boundaries of "good" work in their technical domain.¹⁹ Such moments of self-conscious methodological reflection are rare in ancient scholarship, but they prove illuminating when available, and serve as an anchor point for my discussion. Latent

¹⁷ Or, to borrow terminology from Roger Chartier's groundbreaking work, the "order of books." Chartier, *The Order of Books*.

¹⁸ Ginzburg, *The Cheese and the Worms*, xx-xxi.

¹⁹ Already in the fourth century BCE, Aristotle urged writers, orators, and even flute players to preface their productions with a short discourse on method. *Rhetoric* 3.14.1–11.

expectations about the structure of a good argument are visible in another place as well: in the sum total of scholastic production as it looked and was utilized in the Theodosian Age. Even when scholars are not forthcoming with plain declarations of their methodology, we can see their prejudices and intuitions in the products of their scholarship: the form in which they lay out their arguments, the way that they organize their pages, the places to which they send those pages, and the manner in which they read the work of others who they consider to be peers. If intellectual culture is conceived as a “flexible and invisible cage” that “offers to the individual a horizon of latent possibilities,” this dissertation aims to describe the history of the cage itself: how it came to have the shape that it does, and how that shape defined the scholarship produced inside it.²⁰

In recent decades historians have taken the material form and social function of books as an object of study in and of itself, and as a witness to intellectual history in so far as books are created by people, in time, with purpose. The history of the book can be described as something of a punctuated equilibrium: long stretches of incremental change interrupted by moments of rupture and transition to a new order and a new set of expectations regarding what a book is, how it is to be used, and what potentialities and dangers lay among its leaves.²¹ My dissertation describes one such moment of rupture, in which wide-spread and durable changes in the order of books are visible across

²⁰ Ginzburg, *The Cheese and the Worms*, xxi.

²¹ On “punctuated equilibria” see the seminal article by Niles Eldredge and Stephen Jay Gould, “Punctuated equilibria: An alternative to phyletic gradualism.”

Chapter 1: Christianized Knowledge

seemingly discrete domains of scholarly, technical literature. Material and literary witnesses to the later Roman empire suggest that during the Theodosian age scholastic elites developed a distinctly new book culture, one defined by the rise of authorized codes and implicated in the great scholarly productions of the period: the *Theodosian Code*, the golden age of patristic literature, the renaissance of Latin and Greek historiography, and even the *Palestinian Talmud*. Changes visible across the Roman literary landscape of the late fourth century played out throughout the subsequent eighty years, and in turn continue to shape contemporary notions of what books do, and what one can do with books. The epistemic primacy of written sources in our contemporary world—the notion of a *constitutional* democracy, for instance—has roots in Rome of the Theodosian Age. In the pages that follow, I endeavor to tell part of that story of transformation.

This dissertation, then, attempts to frame the beginning of Late Antiquity as a moment of rupture not only in politics, but in epistemology. It describes the transition between a late Roman world in which Christians appear as interlopers, and a late ancient world in which the structures and ideologies undergirding an ascendant Christianity appear always already part of the fabric of the Jesus movement. There are other transitions to be described—turning points toward a new trajectory that cannot be linearly assimilated to what came before. This dissertation does not describe the only beginning of Late Antiquity, but it describes an important beginning nevertheless.

My argument proceeds in stages. Chapter one reflects on the interconnected social world of elite readers and writers during the Theodosian dynasty, showing how they comprise a single intellectual culture expressed in different disciplinary domains. A case

study on the *Theodosian Code* in chapter two bears out this insight, showing how language that was peculiar to Christian theological disputation before the Theodosian Age came to be generalized, and ultimately to undergird the great juristic achievement of the fifth century. Chapter three surveys Christian epistemologies before the Constantinian Age, demonstrating the diversity of Christian approaches to truth both within the “proto-Orthodox” movement, and outside of it. I then turn to Constantine and Athanasius in chapter four, showing how each impacted a new way of making arguments that became widespread throughout the Orthodox Christian movement during the fourth century. Chapter five traces that new, Christian way of making arguments from the realm of theology into “secular” domains during the Theodosian Age, showing how an epistemology and scholastic method created to solve theological problems was used in legal, historical, and scientific texts of the late fourth and fifth centuries.

Chapters six, seven, and eight, comprise a unit that describes the effect of a new epistemology on manuscripts and readers during the Theodosian Age. Chapter six focuses on the “rise of the code,” and the investiture of the codex format with new meanings when it took center stage as the preferred format for scholastic productions. I turn to manuscripts themselves in chapter seven, showing first how the newly instituted scholastic epistemology influenced the production and use of manuscripts during the fifth century, and then detailing a number of “Christian” scribal tools that were de-signified and re-used in “secular” manuscripts of the period. Chapter eight rounds out my argument, describing the net effect of epistemic and material changes on the way that Theodosian Age readers approached, and interpreted, books. A short conclusion offers reflections on the project as a whole, and the reverberations that Theodosian Age book

culture has had down to our present day.

Observations on Method

Before discussing the interimplication of scholarly domains in the Theodosian Age, I want to offer some observations on method. First, I have distilled a set of characteristics that I argue in detail are part of a class of analysis—a “new order of books.” This class definition is not exclusive: not every member of the class will possess every characteristic by which the class defined. Put differently: not every attribute of Theodosian book culture finds expression in every example adduced. My definition of a “new order of books” follows what Ludwig Wittgenstein termed “family resemblances,”²² or what Rodney Needham calls a “polythetic classification.”²³ As a result, the sense in which any particular example speaks to a wider book culture is not static. I hope that my reader will consider the strength of my argument overall, and the relationship between part and whole, in a manner akin to the strength of a rope, as Wittgenstein put it.

In fact we have found that the use which we really make of the word “comparing” is different from that which looking at it from far away we were led to expect. We find that what connects all the cases of comparing is a vast number of overlapping similarities, and as soon as we see this, we feel no longer compelled to say that there must be some one feature common to them all. What ties the ship to the

²² “Familienähnlichkeiten.” Wittgenstein, *Philosophische Untersuchungen*, paragraph 67.

²³ Needham, “Polythetic Classification: Convergence and Consequences.”

wharf is a rope, and the rope consists of fibres, but it does not get its strength from any fibre which runs through it from one end to the other, but from the fact that there is a vast number of fibres overlapping.²⁴

Second, over the course of my argument, I will ascribe a certain amount of agency to texts themselves—agency that compounds from the actions of writers, readers, scribes, and bookbinders, and the structure of knowledge that each imposes on or reads from the texts that they encounter. It is in this sense that texts can be agents; in their material form texts reflect some intention of their creator, and their form in turn telegraphs to subsequent users a structure of knowledge that is related to, but not coterminous with, the intention of the creator.

Consider, for instance, a rock wall intended to delineate a property line. The wall indicates materially in the width of, say, three feet, a legal boundary with no width sitting within an otherwise contiguous tract of land. A subsequent user of this wall may be a group of children who designate the line of the wall as one terminus in a game of hide-and-seek: in this case the intention of the wall's creator and the later users' understanding align to a significant degree.²⁵ Another user of the wall, however, may be a pilot looking to align her plane with the runway ten miles ahead, who knows that this rock wall

²⁴ Wittgenstein, *The Blue and Brown Books: Preliminary studies for the 'Philosophical Investigations'*, 86-7.

²⁵ In Bruno Latour's vocabulary, the rock wall in this example is an *intermediary*: an object that "transports meaning or force without transformation: defining its inputs is enough to define its outputs." Latour, *Reassembling the Social*, 39.

happens to sit on the required axis. The original intention of the rock wall remains intact even as a user, the pilot, exploits that structure to new, unforeseen ends. In this scenario the landowner's agency has found unexpected expression in local flight paths, and that agency is mediated through a rock wall that acts as an agent itself. It is an intermediate agent, but its agency is not passive: it actively orients real-world phenomena.²⁶

Alternatively, consider a tree in the forest destabilized through many years of use as target practice by a local gun club. If, many years down the line, that tree were to fall on a mime, one would doubtless ascribe some amount of moral culpability to the gun club that negligently destabilized the local environment. But the tree is the agent of the mime's quiet demise.

These are the senses in which texts can constitute agents in the world of readers. As I argue in chapters six, seven, and eight, their effect on readers can be the result of authorial intention, clever re-uses, or unintended eventualities.²⁷ The passivity of

²⁶In Latour's framework manuscripts are *mediators*: "Their input is never a good predictor of their output; their specificity has to be taken into account every time.

Mediators transform, translate, distort, and modify the meaning or the elements they are supposed to carry." *ibid.*

²⁷In the words of Roger Chartier, "Works—even the greatest works, especially the greatest works—have no stable, universal, fixed meaning. They are invested with plural and mobile significations that are constructed in the encounter between a proposal and a reception. The meanings attributed to their forms and their themes depend upon the areas of competence or the expectations of the various publics that

parchment should not be mistaken for a lack of agency.

Next, a note on the sources upon which my analysis is built. The literature that I engage here is not popular—not in either sense of the term. The majority of it was obscure technical literature in antiquity, and for the most part it remains so today, even among ancient historians. The “new order of books” that I describe, rooted in an epistemology inflected by the great Christian doctrinal debates of the fourth century, did not extend to the entire population of the Roman empire in the fourth and fifth centuries; perhaps it did not extend in the form that I describe past the immediate social circles of the individuals involved, or beyond the ideology of the scholars engaged in intellectual debate under the Theodosian dynasty. My sources are not late ancient trade publications, and the data do not speak to, or about, popular audiences.

A distinction between scholarly productions and those meant for popular consumption is not solely mine, however. This division of literary material between that which is “scholarly” or “elite” and that which is purposefully popular is visible throughout the sources. The *Theodosian Code* claims explicitly to be intended as a resource for the scholarly efforts of “more industrious people,”²⁸ while Ambrose affirmed to his congregation that “the faithful interpreter of the mysteries preaches more through

take hold of them. To be sure, the creators (or the ‘powers’ or the ‘clerics’) always aspire to pin down their meaning and proclaim the correct interpretation, the interpretation that ought to constrain reading (or viewing). But without fail reception invents, shifts about, distorts.” *The Order of Books*, ix–x.

²⁸ ...*hunc quidem codicem et priores diligentioribus compositos cognoscamus*. *CTh* 1.1.5

silence” than through divulging to the masses that which is rightly the purview of the scholar.²⁹ I hope that it will become clear over the course of my analysis that the senatorial aristocracy, of which Ambrose and the jurists responsible for the *Theodosian Code* were part, considered each other to be scholastic peers, and intended their work to be engaged and exploited by scholars with like-minded epistemologies, even when they did not hold identical substantive commitments.

It is often asserted that contemporary scholars of the humanities, inevitably, wind up studying themselves. My project offers no rebuttal to this charge. While I applaud the work of historical retrieval pursued by colleagues who are able to excavate the voices and concerns of a subaltern class from elite sources, my own project does not have this aim. I follow Carlo Ginzburg in asserting that “a concept of class structure, even if conceived in general terms, is still an advance over classlessness.”³⁰ My project will aim to shed light on a social class of scholars whose own self-definition presumes vast distinctions in wealth and social standing; entrance to the conversations I will explore was available only to the most affluent citizens of the later Roman Empire. This is neither a virtue of the project, nor do I think that it is a vice. But class is a feature of the project with an outsized determinative role.

And finally, a note on “method” itself. It is often observed that historical narratives predicated on case studies and close readings risk mistaking the anecdotal for the

²⁹ ...*fidus mysteriorum interpret tacendo plus praedicat*. Ambrose, *Exposition of Psalm*

118 4.18. See also the same point in 2.26 and 1.2.

³⁰ Ginzburg, *The Cheese and the Worms*, xxxi.

universal. At worst such studies exchange the extraordinary with the ordinary, leaving an account comprising only the most extreme *termini* of the system described: a picture of successive penumbral edges, failing to grasp the prosaic in light of the exceptional. My analysis will respond to such critiques with the proliferation of examples, but the central concern will nevertheless remain for readers engaged in more technical, neo-formalist disciplines that ascribe particular and ultimately peculiar motivations to any work if it is scrutinized in sufficiently granular detail.

I could produce an extended analysis justifying my use of particular texts and case studies in order to understand a book culture of which the selected texts comprise, at best, only part. Such an analysis would focus on movement in social-historical method after the so-called “linguistic turn.” Or, alternatively, I could offer a quantitative analysis which tabulates each and every instance of the epistemic features that I describe as they appear in Theodosian era scholastic literature. I fear, however, that either option would, in the words of Tomoko Masuzawa, “seem too intricate to be fully credible; it could appear either suspiciously obscure or improbably clever, and in the end, devious and inscrutable.”³¹ Instead, I have chosen to begin my project with these two chapters. The first will offer description of the imbricated nature of elite scholastic discourses during the period under analysis. The second presents a formalist, philological analysis of interconnections between Christian and juristic scholarship of the fourth and fifth centuries. I will show that the analytical method that I propose can be cashed out in terms of purely philological analysis, though such a reduction will always involve loss of

³¹ Masuzawa, *The Invention of World Religions*, 31.

explanatory value. The aim of this dissertation is to excavate, again to paraphrase Masuzawa, the half-forgotten worries, hopes, and controversies that animated a dramatic shift in the way that readers approached books and the work of scholarship during the Theodosian Age.³² I cannot ultimately justify the method on purely analytical grounds. Historical research, after all, is not science, and connoisseurship will always play a central role. I cannot hope to convince my reader of a somewhat novel method from the first pages of a long, and yet singularly interested, piece of analysis. I hope only that my reader will, for the moment, offer the benefit of the doubt, and test the utility of the analysis after the work is complete.

Beyond “Comparison”

In seminal articles in the *Journal of Early Christian Studies*, Mark Vessey and Éric Rebillard described a new form of argumentation among Christian scholars of the Theodosian era.³³ Each argued that the Theodosian age gave rise to the phenomenon of “patristic commentary,” in which theological arguments moved from primary basis in scriptural sources to a basis in prior theological authorities. This change in citational form was a revolution in Christian literary practice, and as Vessey has pointed out, “If the conciliar and imperial enactments of 380–82 ushered in a new ecclesiastico-doctrinal order, they also heralded a new order of books.”³⁴

³² *ibid.*, 21.

³³ Vessey, “The Forging of Orthodoxy”; Rebillard, “A New Style of Argument.”

³⁴ Vessey, “The Forging of Orthodoxy,” 500.

Scholarly description of this “new order of books” in the Theodosian era has only just begun.³⁵ Vessey compellingly ties the rise of new forms of Christian documentary practice to internal, Christian doctrinal disputes, arguing that new doctrinal concerns among Christians led to new textual forms. His intuition finds support in the explanation of changes in Christian documentary culture among Christian scholars of the time. In 359, for instance, Hilary famously wrote that “necessity introduced the custom of defining the faith and of signing on to the definition.”³⁶ But the institution of new citational forms among the Christian scholastic elite did not long remain an internal facet of the Orthodox movement; in 359, as well, the emperor Gratian was born. It was under his rule that Christians, for the first time, rose to enough prominence among the late Roman nobility that their numbers appear in rough parity with those of Roman Traditionalists in the Senate.³⁷ I argue that this confluence produced the broad scale

³⁵ See, more recently, Ellen Muehlberger, *Angels in Late Ancient Christianity*, 69–79 on preceding Christian epistemic innovations in the 360s–80s, and Julia Dietrich, “Augustine and the Crisis of the 380s in Christian Doctrinal Argumentation.”

³⁶ ...*necessitas consuetudinem intulit, exponi fides, et expositis subscribi*. He continues *Ubi enim sensus conscientiae periclitatur, ille littera postulatur. Nec sane scribi impedit, quod salutare est confiteri*. “Wherever a sense of conscience is at stake, the letter is required. Nor is it wrong to write that which is good to confess.” Hilary of Poitiers, *de Synodis* 63. Text *PL* 10.523B-C All translations are my own unless otherwise marked.

³⁷ On counting senatorial heads see the classic study of Raban von Haehling, *Die*

epistemic changes in the Theodosian era: the imperial decision to define the bounds of Orthodoxy as adherence to a universal statement, along with the rise Orthodox Christians into the senatorial and noble elite at a scale significant enough to effect a fundamental change in the way that elite and scholarly arguments were made. The Christianization of the empire did not only affect what could be true, but also how one went about proving the point.

As I argue in chapter four, this shift in epistemology and scholarly practice arose from a tradition of doctrinal argumentation that found ultimate value in defining a universal statement and promulgating that statement as coterminous with the bounds of

Religionszugehörigkeit der hohen Amtsträger, (especially p. 511–512) but also the incisive critique of Barnes, “Statistics and the Conversion of the Roman Aristocracy,” and the rather more moderate (and compelling) approach of Salzman, “How the West was Won.” On all accounts, the rough outline of conversion among Roman elites points still to the reign of Gratian or his successor Theodosius I as an inflection point in the conversion of the aristocracy. According to Mark the Deacon, during the reign of Arcadius nearly all high office holders were Christian, but “many people in positions of honor pretended to have faith (Πολλοὶ...τῶν ἐν ἀξίαις προσποιήτως εἶχον τὴν πίστιν).” The reason, he offers, is that “if the Emperors learned that they did not hold rightly concerning the undefiled faith, they stripped them of honors (μαθόντες...οἱ βασιλεῖς ὅτι οὐκ ὀρθῶς ἔχουσιν περὶ τὴν ἄχραντον πίστιν, περιεῖλον αὐτοὺς τῶν ἀξιωματῶν)...” Mark the Deacon, *Life of Porphyry* 51. Text Grégoire and Kugener.

Orthodoxy. It is not surprising that other forms of knowledge produced by Christians were presented with a similar structure. It is not surprising, for instance, that a Nicene Christian approach to law would privilege the subordination of a commentarial and multi-vocal tradition to an authorized statement of legal orthodoxy that looks something like the *magisterium vitae*, “guide to life” of which the *Theodosian Code* was intended to be part.³⁸ Yet, modern scholars of Roman law have proven extraordinarily reticent to acknowledge any Christian influence on the structure of the *Code* itself, even though the majority of the men compiling Theodosius II’s law code were part of the Christian elite of the Theodosian Age.³⁹ It is often argued, instead, that the *Theodosian Code* does no normative, constructive theological work, and thus it is wholly separate from other normative aspects of the Christian culture in which it was produced. I argue, however,

³⁸ *CTh* 1.1.5. More on this in chapter 2.

³⁹ For instance, members of the both the original and the second commissions (established by *CTh* 1.1.1.5,6) include: *Antiochus vir inlustris quaestor sacri palatii* (PLRE 2 Antiochus 7), who corresponded with both Theodoret (*Epistle* 33) and Nestorius, for the latter of which he arranged safe passage through Asia and Pontica (*ACO* 1.1.7 p.71 n. 55) and, perhaps, Celestine (*Epistle* 13.2); as well as *Theorodus, vir spectabilis, comes sacri nostri consistorii* (PLRE 2 Theodorus 24) who is, in all likelihood, identical with the Theodorus ὁ μεγαλοπρεπέστατος ἀπὸ κвестόρων was present at the Council of Chalcedon. (*ACO* 2.1.2 p. 139) Likewise PLRE 2 Apollodorus 5, part of the second commission and likely present at the Council of Chalcedon. *idem*.

that fourth century debates over Orthodoxy spurred an epistemic shift that defined the contours of a book culture which influenced the *Theodosian Code*, as well as works such as the *acta* of Chalcedon, and even the *Palestinian Talmud*. One may argue that the *Theodosian Code* is a Christian document, whether or not it does constructive theological work, because it is predicated on an epistemology that arose out of Christian doctrinal dispute.⁴⁰ The Christian doctrinal disputes which offered a first glimpse at the contours of changes in the mid-fourth century, in fact, constituted a fundamental epistemic shift that defined the contours of the Theodosian era textual culture far beyond the domain of theology.

Contemporary scholars of each of these corpora often explain changes in the format of documents and readerly expectations during the Theodosian era on the basis of internal concerns. Rather like Vessey's understanding of the advent of "patristic commentary," scholars of Rabbinic literature and Roman law habitually resist the suggestion that fundamental innovations in form may be attributable to external, cultural factors rather than internal, doctrinal ones. For example, Seth Schwartz follows generations of Rabbinic scholars when arguing recently that

The Rabbis produced a body of literature unlike anything else ever written in the Roman world. Its alienation or self-alienation from the classical tradition is nearly absolute... The Talmud's status as Roman literature needs to be argued in ways that the status of other literary artifacts of the same time and place does not. The Rabbis proclaimed their alienation from normative Roman culture in every line

⁴⁰ I return to this possibility in the conclusion.

they wrote.⁴¹

A similar perspective is common among scholars of Roman law. John Matthews goes to great lengths to cobble together an answer to the question of why, “at this late hour in Roman history [429 CE],” a codification of law should be undertaken.⁴² Matthews admits that “with the Theodosian Code... we find ourselves at such a moment, when a need is felt to make this clear, to sum up an achievement because it forms a part of the perceived aims of a state or because these aims are threatened.”⁴³ Along with the vast majority of scholars of Roman law, Matthews steadfastly refuses to consider that the “need” for a clear summation of legal Orthodoxy arose only within Christian intellectual culture in which such universal statements of truth, distilled from commentarial and discursive traditions, were quite commonplace. By the time of the *Code*’s promulgation, Christian scholars had undertaken similar efforts as their main scholarly aim for nearly two generations. Despite an admitted paucity of evidence, Matthews contends instead that political expediency and general unease with the state of the law in the mid-fifth century animated the compilation of the *Code*.⁴⁴ He repeats an orthodoxy among scholars of

⁴¹ Schwartz, *Were the Jews a Mediterranean Society?*, 113–4.

⁴² Matthews, *Laying Down the Law*, 30.

⁴³ *ibid.*

⁴⁴ Matthews on the paucity of evidence for his argument about the underlying impetus for the creation of the *Theodosian Code*: “One remark by a satirically inclined historian and another by an unknown commentator of generally acknowledged eccentricity, do not add up to a program of reform.” Matthews, *Laying Down the Law*, 20.

Roman jurisprudence when he presents the *Theodosian Code* as an utterly novel innovation.

In and of themselves, internal explanations for changes in documentary culture and citational practice are not wrong, or even misguided. But in this instance, such explanations fail to take into account one very simple datum: remarkably similar changes to documentary practice took place across scholastic literature during the Theodosian age. It may be the case that similar innovations in the presentation and utilization of textual material occurred simultaneously across scholastic traditions due to pure coincidence. I argue, however, that in this instance, broader changes in cultural expectations of texts—what they are, what they look like, and what they do—simply found different expressions in different scholarly genres. These cultural expectations were forged in the Christian doctrinal controversies of the fourth century and codified in the great literary achievements of the fifth.

This is to say something that, on its face, is fairly uncontroversial: that the bishops, jurists, rabbis, and assorted scholars of technical disciplines responsible for the literary remains of the Theodosian era are not *sui generis*. They were educated alongside peers of elite households, and share many peculiar reading habits and hermeneutic strategies.⁴⁵

⁴⁵ See, for instance, Jill Harries, who contends that “All men with sufficient means had received the same education with, first, the *grammaticus* and then the *rhetor*. All, then, were schooled in language and vocabulary and rhetorical technique. Part of the education system entailed the practice of *controversiae*, speaking on one side or the other in different kinds of arguments, including legal cases. Thus all schoolboys

Some of these men went into imperial administration, while others went into Church administration. Some argued christological points with compendia of previous theological debates and pronouncements; many more argued legal points with compendia of previous laws and analysis. Bishops created dossiers of conciliar pronouncements and *acta* while jurists created compendia of legal statutes and juristic opinions. In the case of two corpora—dossiers of conciliar *acta* and compendia of legal statutes and juristic opinions—both were compiled in the same court chancery, likely by the same imperial officials.

To paraphrase Philip Seymour Hoffman's Truman Capote, it is as if the bishops and the jurists grew up in the same home. And one day, the bishops stood up and went out the back door, while the jurists went out the front.⁴⁶ Cognate literatures offer a window on the structure of readerly and writerly expectations during the time period under investigation.⁴⁷ We can learn, so to speak, something about their shared childhood home.

received some legal training to some degree, although not all would go on to be legal specialists. By the fourth century, legal training at Berytus (Beirut) was highly developed and the tradition of legal education at Rome through public seminars and discussions probably continued unbroken from the early empire through the third century." Harries, "Constantine the Lawgiver," 81.

⁴⁶ Miller, *Capote*. As Susanna Elm notes of Julian and Gregory of Nazianzus, "'Both were entirely men of their time. They shared with each other and their elite contemporaries far more than divided them.'" *Sons of Hellenism*, 484.

⁴⁷ As Blossom Stefaniw notes, "To study Christians according to specially Christian

Chapter 1: Christianized Knowledge

Throughout the course of this chapter I demonstrate that, at least in the case of the scholastic work of Theodosian bishops and jurists, we are indeed dealing with cognate literatures.

This is, I hope, not to flirt with parallelomania. I do not want merely to show that the concerns of one corpus are echoed in another. It is hardly surprising that in some aspects the *acta* of Chalcedon and the *Theodosian Code*, nearly contemporaneous documents from the same imperial chancery, share similar concerns. It is further not surprising that the *Palestinian Talmud*, a quasi-legal code compiled in the late fourth century, would hold some ideas or issues in common with the other great legal codification of its day. Rather, this dissertation attempts to demonstrate convergences between these corpora on a structural level—to show that bishops, Rabbis, jurists, and others approached their task of commentary and codification with analogous prejudices and expectations about scholarship. These prejudices and expectations were new to the Theodosian era, widespread, and durable.

Before I begin the case study, a note on terminology: my distinction between “Christian” and “Juristic” scholarship is not meant to imply that jurists could not be Christians, or that their Christianity was ancillary to their judicial work. Quite the opposite—this dissertation purposefully militates against such bifurcation. Rather, I use the terms in their disciplinary sense: “Christian scholarship” refers to a tradition of theological disputation that the subjects of my analysis considered to have a definite form

categories....is to reinscribe and reify early Christian ideologies of novelty and singularity.” Christian Reading, 218.

of internal coherence. For instance, for Jerome, “Christian scholarship” includes works of the 135 men whom he dubbed “eminent men” (*viri illustres*) in his explication of the tradition.⁴⁸ There is no doubt that Jerome conceived of juristic scholarship as a separate domain from the discourse of Christian scholarship exemplified by his “eminent men:” he says as much in *Letter 77.3*.⁴⁹ Many centrally important jurists of the Theodosian court were Christians, and their Christianity influenced their scholarly production in the same way that Ambrose’s legal training inflects his own works of Christian scholarship. Likewise there is no doubt that the professorship of jurisprudence endowed by Theodosius II and Valentinian III in 425 was awarded to a professing Nicene Christian.⁵⁰ But this man’s professional duties were nevertheless cast within the realm of juristic scholarship. “Christian scholarship” and “Juristic scholarship” were conceptually separable domains of inquiry during the Theodosian age, and each had an idea of their own disciplinary history. Both were equally domains of scholarship, or what Caroline Humfress has called “specialist form[s] of imperial prose literature.”⁵¹ When I distinguish between “Christian” and “Juristic” work in the Theodosian empire, I invoke this emic distinction.

Because of the nature of the comparison, and the nature of contemporary scholarship on each domain, I will proceed through my argument in two steps. I begin by

⁴⁸ Jerome, *De viris illustribus*.

⁴⁹ More on this below.

⁵⁰ *CTh* 14.9.3.

⁵¹ Humfress, “Ordering Divine Knowledge,” 161.

Chapter 1: Christianized Knowledge

focusing on the shared book culture evident in Christian and juristic scholarship of the Theodosian age, distilling from the extant sources an overview of the “new order of books” as well as specific, discrete innovations that populate the literary landscape of the late fourth and fifth centuries. Over the course of this dissertation I will contextualize these correspondences and innovations among other domains of Theodosian scholarship, but I turn to Rabbinic sources only at the end of my analysis. In chapter eight I offer a reading of the *Palestinian Talmud* contextualized by the convergences between Christian and Juristic scholarship of the Theodosian age.

I have two reasons to proceed in this manner. First, avenues of exchange, to which I turn below, are significantly clearer between bishops and jurists than among any other scholastic group. The extent and nature of their contact is explicit. On the other hand, as Schwartz argued above, Rabbis formally disclaim the type of cultural influence that we can see between bishops, jurists, and a wider Roman book culture. The nature of exchange in the Christian and juristic domains is clear; in the case of the Rabbis, contact is somewhat more diffuse, and perhaps involved less reciprocity between groups.

Second, this is a dissertation with a comparative methodology, and as such it is particularly prone to muddy waters in which the distinctiveness of corpora dissolve into a puddle of similarity without obvious implication. Comparison is always carried out with reference to a background of similarity, between three objects of inquiry.⁵² In order for a comparison to have useful implications, two objects must be compared on the basis of a single substratum of identity. In the case of the comparative work that underlies my

⁵² For a discussion with reference to ancient Christianity see Smith, *Drudgery Divine*, 37.

dissertation, comparison between bishops and jurists will help to clarify the substratum of identity, which I identify as components of the “Theodosian order of books”—facets shared between the technical literature of each that arose from a shared intellectual culture. Subsequent comparison with Rabbinic material offers an arena in which to test hypotheses regarding the epistemic environment of the later Roman empire, and its separate discussion is intended to guard against the multiplication of exempla that dissolves any useful or rigorous basis for analysis. Only after establishing a “new order of books” among Christian and juristic scholars can the concepts that make up that order be used as a basis upon which to ask whether Rabbinic material truly takes part in the same book culture as other literate Romans in the Theodosian era. If the Roman Rabbinic material, in turn, shares distinctive aspects of Theodosian book culture that differ from what is found in other instantiations of the genre, like the Sassanian recension of the *Talmud*, then such correlations point to a distinctive and shared book culture between jurists, Christians, and Rabbis living in the later Roman empire.

Bishops and Jurists

I am hardly the first scholar to suggest that bishops and jurists benefited from similar training, and that they brought to their divergent tasks a similar textual *habitus*. Texts from the Theodosian age demonstrate this clearly. For instance, the *Collatio legum Mosaicarum et Romanarum* comprises an importation of Roman juristic writing and legal pronouncements into a Christian framework, and amply demonstrates its compilers’ interest in rectifying Roman juristic and biblical scholarship as separate but compatible

domains of inquiry.⁵³ Jerome, too, speaks regularly and learnedly of the Roman juristic tradition, expecting his interlocutors at least to understand his references like one in Epistle 77 (written in 399 CE), where he announces that “Caesar’s laws differ from Christ’s. Papinian prescribes one thing, and our own Paul another.”⁵⁴ Augustine too shows at least general familiarity with the documents and institutions of legal scholarship when he quotes from a law of Caracalla as preserved in the *Codex Gregorianus*, and discusses elsewhere the *Senatus consultum de bacchanalibus*.⁵⁵ Caroline Humfress concluded that “Augustine, like Jerome, thus rejects the writings of the Roman jurists in favour of the teachings of Christian Scripture, yet both Patristic authors are thereby able

⁵³ Often referred to as the *Lex dei*. The collection, admittedly, may be of Jewish origin.

Nevertheless Robert Frakes has made a compelling case for the document arising out of Christian circles, likely in Rome between 390 and 438. Whether it was “written” by Christians or not, Christians were responsible for its circulation during the Theodosian era. Frakes, *Compiling the Collatio*, 52-9.

⁵⁴ *Aliae sunt leges Caesarum, aliae Christi; aliud Papinianus, aliud Paulus noster praecipit*. Jerome, *Letter 77.3* In this case, Jerome’s interlocutor is another bishop named Oceanus. The inclusion of *noster* after *Paulus* signifies that Jerome is concerned with the apostle Paul, and not the jurist by the same name. That such a confusion could occur only magnifies the point. Text *CSEL*.

⁵⁵ *On Adulterous Marriages (De coniugiis adulterinis)* 2.8.7 and *The City of God (De civitate Dei)* 18.13, respectively.

to showcase their own elite familiarity with Roman legal culture.”⁵⁶ I would modify Humfress's conclusion only slightly, stressing that what we find in these intertexts is not just “elite *familiarity* with Roman legal culture.” Rather, we come to see that seamless movement through elite Roman culture itself required cursory training in law.⁵⁷ I hope to demonstrate that bishops shared not only judicial training; they also think about the production and use of scholarly books in a similar manner to their jurist peers.

Lines of transmission, however, do not lead invariably from the elite, “secular” culture of law to the specialized, “sacred” culture of Christian theological disputation. Noel Lenski has shown conclusively with a case study on the “Arian controversy” that the distinction between doctrinal and legal disputation had become meaningless already by the beginning of the fourth century, during Constantine’s own reign.

...insofar as doctrinal disputes truly mattered to the late antique mindset, and indeed they did, in many ways they simply constituted yet another arena of contention that took its place alongside more traditional fields of competition like wealth, status, euergetic display, and rhetorical or intellectual showmanship. Peer polity interaction/rivalry thus simply absorbed Christian credal dispute as an additional arena within which the new local leaders could vie for power and

⁵⁶ Humfress, “Patristic Sources,” 102. See also p. 99-101.

⁵⁷ Brent Shaw has concluded along similar lines that “there is no doubt that bishops appropriated the judicial experience and preached it.” Shaw, “Judicial Nightmares and Christian Memory,” 549.

prestige.⁵⁸

One hundred years before the compilation of the *Theodosian Code*, when the empire, by the most generous estimates, was around 20% populated by people identifying privately as Christian, civic and theological disputation were already opposite sides of the same Constantinian coin.⁵⁹ By the time that more Christians were members of the Roman senate than Roman Traditionalists, another half century had passed, Theodosius I had ascended to the purple, and a new era of Christian and juristic scholarship was on the horizon. John Matthews argues that it was precisely the early years of the reign of Theodosius I in which we see the full dissolution of any meaningful distinction between the emperor's "religious" and "legislative" agendas.⁶⁰

⁵⁸ Lenski, *Constantine and the Cities*, 277-8.

⁵⁹ To my mind, the most reliable study of numerical "Christianization" remains Ramsay MacMullen, *Christianizing the Roman Empire*.

⁶⁰ "Jerome enables us to appreciate that the 'official' religious activities of the emperor, in legislation and enforcement, were by no means an isolated phenomenon. They are to be understood in a broader and less formal context, of the active interest of individual Christian courtiers in church affairs and in the world of eastern religious piety, of which Jerome himself was to become a leading protagonist. This was not a new development, but it was one which made great advances in the time of Theodosius, and it is to it that our attention may now be directed: beginning with the court itself, and again with the councils of the early 380s, before moving out, with the courtiers themselves, into the provinces of the eastern empire." Matthews, *Western*

The “Christianization” of juristic practice is visible not only in way that the men responsible for writing and promulgating law identified themselves religiously, but also in the text of legal statutes themselves, as one sees with even a cursory overview of the mid-fourth century anti-Traditionalist laws preserved in book sixteen of the *Theodosian Code*.

Thus far I have argued that Christian and Juristic scholars took part in a book culture that was, at very least, inter-implicated. I turn now to a case study which demonstrates that the theoretical framework of the *Theodosian Code* itself is directly dependent on previous generations of Christian scholarship. The evidence that Christian and Juristic scholars moved in and breathed the same epistemic air is more than circumstantial: it is philological.⁶¹ Any number of case studies could be adduced to demonstrate that Christian and Juristic scholars around the Theodosian court were in constant and substantive contact. The effect of this case study in particular is to show that the crowning jewel of post-classical juristic scholarship is not only indebted to, but fundamentally framed by innovations that can be localized to fourth century Christian scholarship. The Christian scholastic *milieu* of the Theodosian empire did not simply

Aristocracies and Imperial Court AD 364–425, 129.

⁶¹ I intend to prove, in other words, what Lewis Ayres asserts: “Christian theology should be seen not as a separate branch of late antique knowledge, with a content separate from other branches of knowledge, but as itself a means of structuring the activity of knowing overall. In particular, the development of Nicene theology offered new ways for Christians to articulate both the task of knowing and its goal.” Ayres, “God,” 134.

Chapter 1: Christianized Knowledge

influence the wider scholastic culture; texts like the *Theodosian Code* would have been impossible to conceive in its absence.

Chapter 2—Case Study: The Theodosian Code in its Christian Conceptual Frame

Thus far, arguments about the underlying “Christianity,” or “secularity” of the *Theodosian Code* are equivocal. The relegation of “religious” matters to book 16 may suggest that they are an addendum, but it may also suggest that religion is a central concern to the project—central enough to justify its own, separate treatment. That the compilation begins with Constantine, and specifically with constitutions promulgated after 312 CE, suggests that Constantine’s “conversion” may be in view, but ancient ideas about Constantine’s embrace of Christianity are fluid and not univocal on the date of the shift. In these and other arguments, the substantive content of the Code is prioritized over the conceptual framing of the project. And yet it is in the framing of the Code that the clearest evidence for the effect of Christian scholasticism on later Roman law is found. The constitutions which call for the creation of the code, *CTh* 1.1.5 and 6, demonstrate the importation of Christian conceptual frameworks into the Roman juristic sphere. They show the dramatic extent to which Christianity had taken hold in the Theodosian empire not only by virtue of increasing adherence, but by virtue of the interconnection of scholastic domains and the “Christianization” of structures of knowledge and governance.

The organizing principle of the *Theodosian Code* is “general law (*lex generalis*).” Its compilation began with a constitution of 429, preserved in book one of the *Code*, that identified eight men and tasked them with a two-step process: first, they were to collect and edit imperial constitutions from the reign of Constantine through their present day

that were based on formal edicts or laws that were designated “general.”¹ Their second task was never completed—they were to compile a “guide to life (*magisterium vitae*)” which eliminated all legal ambiguities, and to promulgate this corpus under the name of the Emperor.

The concept of “general law” does not appear in the text of any ancient juristic commentary. It is not discussed as a general category of legal definition in the way that, for instance, Ulpian copiously delineated the concept of an “edict (*edictum*)” in its various instantiations. Furthermore, three years before calling for the compilation of the *Theodosian Code*, the western court of Valentinian III issued a constitution that defined the boundaries of what constitutes a “general law (*lex generalis*).”² These two facts alone suggest that the terminology does not derive from classical Roman jurisprudence. In fact, the concept of a law that applies to all, regardless of class, gender, citizenship, or location, finds scant precedent in Roman jurisprudence before the Constantinian dynasty. This odd state of affairs, in which the crowning jewel of Roman juristic scholarship is organized around a concept that appears only late in the history of the tradition, has caused a handful of scholars to wonder at the conceptual history of “general law.” But few have considered the possibility that such a doctrine of legal universalism found its way into the juristic tradition in conjunction with the rise of Christians to legislative and societal prominence, and did not derive from an insular progression of jurisprudential

¹ *CTh* 1.1.5. Text Mommsen.

² *CI* 1.14.2,3. Text Krüger.

theory.³

This chapter returns to the question of the conceptual history of these two organizing principles of the *Theodosian Code*— “general law (*lex generalis*)” and “guide to life (*magisterium vitae*).” I argue that the sense in which the *Theodosian Code* is intended to constitute a “guide (*magisterium*)” invokes the word with a usage known exclusively in Christian theological contexts. The idealized framing of the *Theodosian Code*, in other words, is senseless outside of an environment suffused by peculiarly Christian Latin usages. I argue as well that legal historians are correct in suggesting that the concept of a “general law” is not internal to classical Roman jurisprudence. Historians

³ Those who have spent any time unpacking the concept do so only cursorily, and almost unfailingly a single reference to an article published in 1981 by N. Van Der Wal that, according to the citations of Turpin, “The Law Codes and Late Roman Law,” 342; Matthews, *Laying Down the Law*, 66; Harries, *Law and Empire in Late Antiquity*, 226; Moreno Resano, “La acepción de *interlocutio* en derecho romano,” 251; Harper, “The *SC Claudianum* in the *Codex Theodosianus*,” 612; Dillon, *The Justice of Constantine*, 274; Wiewiorowski, “The Abuses of *Exactores* and the *Laesio Enormis* – a Few Remarks,” 75; and others, is titled “*Edictum* und *lex generalis*. Form und Inhalt der Kaisergesetze im spätrömischen Reich.” The title, as cited, is incorrect. The article is called “*Edictum* und *lex edictalis*,” and while it treats the concept of “general law” in a cursory manner, the article cannot bear the weight placed on it by those cited above. It is not the last word on the topic; it is barely on the topic whatsoever.

are incorrect, however, to presume that the concept has no clear intellectual lineage. In fact, from the second through the fifth centuries, elite Christian men discussed and debated precisely the definition and contours of what could be considered a “general law”—a category of scholastic concern that ultimately arose out of Jewish biblical commentary of the first century CE. Questions regarding the interpretation of the letters of Paul of Tarsus and the relationship of traditional Jewish *halakha* to an increasingly gentile and politically ascendant Catholic Christianity gave form and voice to the epistemic construct of “general law,” and it is this construct upon which the *Theodosian Code* is based. Others have demonstrated in recent years that Christian theological pronouncements had visible effects on the wording of imperial constitutions throughout the fourth and fifth centuries.⁴ I argue here that Christianity’s influence on the *Theodosian Code* is witnessed not only in the wording of its constitutions, but in its proposed structure and epistemic motivation.⁵ The law calling for the compilation of the

⁴Caseau, “L’adjectif *profanus* dans le livre XVI du Code Théodosien”; Freu, “Rhétorique chrétienne et rhétorique de chancellerie.”

⁵A word of caution at the beginning will prove prudent: Sebastian Schmidt-Hofner has shown convincingly that, in reality, “leges generales besaßen nicht notwendigerweise im gesamten Reich oder in einer großräumigen Verwaltungseinheit wie einer Präfektur Geltung.” Schmidt-Hofner, *Reagieren und Gestalten*, 23. My argument concerns not the application of the concept of “general law,” but its intellectual history. As I show below, the Theodosian definition of legal *generalitas* is founded on a doctrine of universalism, the application of particular laws notwithstanding.

Theodosian Code itself, in turn, serves as a prism through which to view the effect of Christian governance on domains of later Roman life that do no obvious theological work, but which are nevertheless inflected by Christian epistemic frameworks.

***Magisterium Vitae* and Christian Tradition**

The clearest sense in which Christian concepts are redeployed in the framing of the *Theodosian Code* is that the project as originally conceived was intended to undergird a *magisterium vitae*, a “guide to life.” *CTh* 1.1.5 does not only call for a collation of edictal and general law, or roughly the project as re-framed in 1.1.6. The initial constitution envisioned a second step of the process in which the same group of distinguished legal scholars who collected together the mass of edictal and general law would produce a *magisterium* that allows no contradiction, and that has been worked over again and again until it is worthy to bear the name of the emperor.

It has been known for quite some time that late ancient Christians used the term *magisterium* in a sense particular to them.⁶ Archi admits as much, though with little comment regarding the peculiarly Christian usage of this word in the framing of the

Schmidt-Hofner continues on pages 23–34 with an excellent overview of the various ways in which appellations of *generalitas* operated as regards specific statutes, apart from doctrine.

⁶ *TLL* 8.0.90.5-6. “institutio, educatio, disciplina, doctrina (tam active de actibus instituendi quam passive de praecepto, regula)” See LSJ s.v. “*magisterium* 4.”

Theodosian Code.⁷ The *Thesaurus Linguae Latinae* glosses the term in this valence as a “guide” or a “tutor,” and Christians overwhelmingly invoke the term in this sense. So for instance Ambrose, member of the court of Valentinian I, in his *On Duties* (c. 385) lays out three precepts of life which each saint exemplifies.

These are the three principles, then: let us take any one of the saints, and see if we can show that his life illustrates all of them to perfection. First, consider our father Abraham himself, who was shaped and taught so as to be a guide for those to come (*Primum ipse pater Abraham qui ad magisterium futurae successionis informatus et instructus est*).⁸

This is the sense in which the term *magisterium* is deployed by Christians—as a “guide for life.” Writing his *Divine Institutes* from the Court of Constantine, Lactantius likewise employs the term repeatedly for two purposes, and always with the same meaning: to demonstrate that no worthwhile virtue can be learned from the Traditional philosophical schools,⁹ and that it was Christ’s *magisterium*—his guidance—that led people to believe

⁷ “Il termine *magisterium* per indicare un'attività educativa, è caro e diffuso tra gli scrittori tardi e in particolare cristiani... Proprio come si potevano insegnare le verità essenziali di natura religiosa quali norme di vita, così, ad altra finalità pratica, era opportuno insegnare il diritto *subiectis et provinciis et populis* (Nov. Theod. 2. 1).”
Archi, *Teodosio II*, 29.

⁸ Ambrose, *On Duties* (*De Officiis*) 1.106-7. Text *PL* 144.55C.

⁹ For instance, 3.14.20, 3.15.21.

in his divinity.¹⁰

When the term *magisterium* is used by non-Christians (in the few places where the lemma shows up at all), it is invariably employed with a meaning that would make no sense in the context of *CTh* 1.1.5; it is used to denote an office of control over people or an institution. Cicero uses the term to denote the master of ceremony at banquets,¹¹ and to characterize the censor's strict supervision of customary tasks.¹² Suetonius likewise describes Augustus's great grandfather as enjoying *municipalibus magisteriis*—surely offices within a *municipium*, and not the position of being a town's moral exemplar.¹³

The charts below will suffice to bear out both that the word *magisterium* is exceedingly rare before the fourth century, and that when it begins to be used with any regularity, it is used almost exclusively by Christians.¹⁴ Furthermore, when Christians use

¹⁰ Lactantius, *Divine Institutes* (*Divinae Institutiones*) 4.16.3. Text PL 6.496B.

¹¹ Cicero, *On Old Age* (*De Senectute*) 46.

¹² Cicero, *On the Consular Provinces* (*De Provinciis consularibus*) 46.

¹³ Suetonius, *On the Life of the Caesars* (*De Vita Caesarum*), *Divus Augustus* 2.3.

¹⁴ The data for these charts were collated from LLT-A/B. Total counts for charts 1 and 2 in the fifth century do not match because I have excluded the use of *magisterium* in the *Theodosian Code*, so as not to bias the data. Data compiled from the TLL on March 6, 2018. The trend appears even more stark if the data is normalized against the overall production curve for Latin literature, but the poor preservation of third century Latin sources, and the over-representation of Christian materials in the third century corpus, renders true data normalization impossible. This last sentence made

the term, they use it in a sense different from classical authors, and to the same end as it is invoked in the *Codex Theodosianus*: a guide.

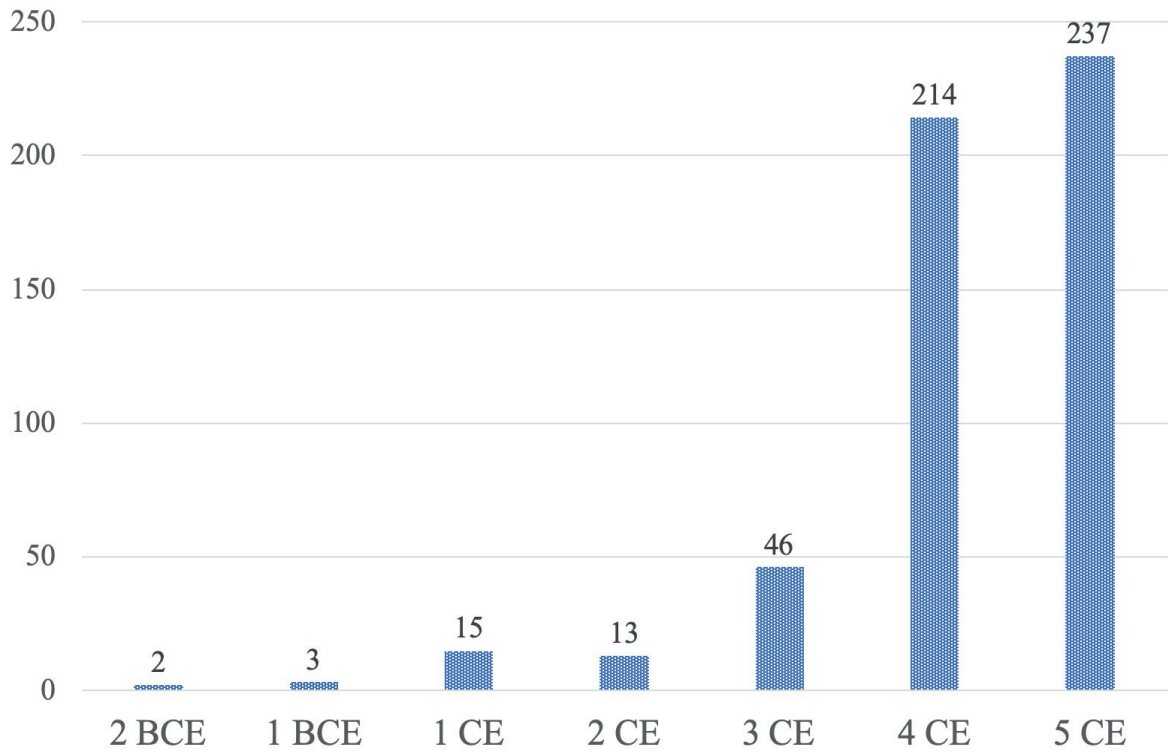


Figure 2.1. Occurrences of the lemma *magisterium* across Latin literature.

possible by two days of labor.

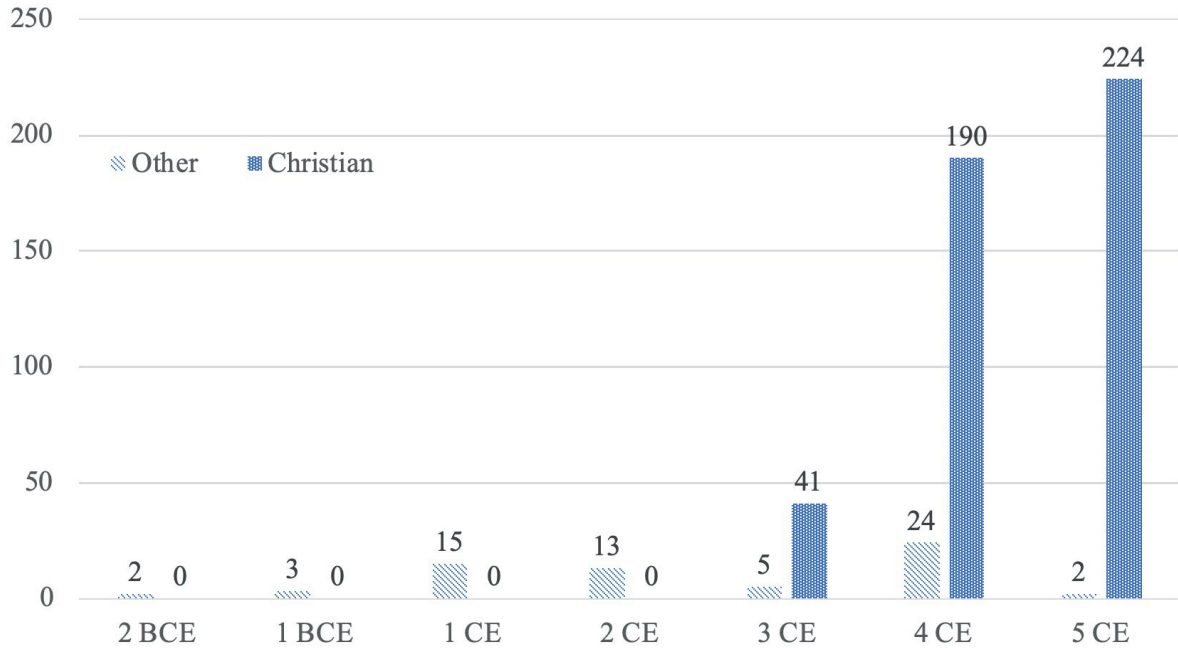


Figure 2.2. Occurrences of lemma *magisterium* across Latin literature, Christians separate.

The universalizing statement of moral and jurisprudential orthodoxy that is envisioned in 1.1.5—the *magisterium vitae*—speaks to the extraordinary extent to which Christian concepts have suffused imperial ideology, and are invoked as foundational for the new legal order of the Theodosian empire. There is another way in which the peculiarities of Christian scholarship and usage found their way into the conceptual framework of the *Theodosian Code*, however. The *Code* is explicitly conceived as a collection of edictal and “general” law, but it was Christians who theorized about the definition and boundaries of “general” versus “specific” law in those terms for two hundred years before the language appears in juristic sources.

***Lex Generalis* in Classical Jurisprudence**

The concept of a “general law” has no precedent in classical jurisprudence, though a few scholars have asserted, uncovered, or otherwise contrived a classical backstory. Clyde Pharr, for instance, finds a doctrine of legal universalism equivalent to late ancient *generalitas* in the Twelve Tables’ prohibition of statutes implicating only one subject (*privilegia*).¹⁵ Of course the text of the statute in question is not extant, and surviving fragments contain no discussion of *generalitas*. Furthermore, even a cursory overview of the history of Roman jurisprudence from the Republic onward will show that in any case *privilegia* were plenty to be had; *generalitas* is not to be found in the Twelve Tables, and even if it were, the statute which supposedly comprised its source appears to have carried no weight.¹⁶

A more nuanced analysis was offered by Archi, who is of two minds on the subject.

¹⁵ Pharr, *The Theodosian Code*, 4n24. Translations throughout are adapted from Clyde Pharr, *The Theodosian Code*. Pharr’s publication includes significant contributions by Theresa Davidson, the publication’s associate editor, which were insufficiently acknowledged by Pharr. Additionally, significant work on the edition was done by Mary Brown Pharr, in her capacity as assistant editor, and many of the Pharr edition translations were based on work done by Pharr’s (mostly female) students. For a full investigation of significant women’s work occluded in Pharr’s edition, see Linda Jones Hall, “Clyde Pharr, the Women of Vanderbilt, and the Wyoming Judge.”

¹⁶ The jurist Sextus Caecilius (as reported by Gellius) makes clear extent to which the *Twelve Tables* were considered all but obsolete already in the Antonine age. Aulus Gellius, *Attic Nights (Noctes Atticae)* 20.1.4–5.

He finds compelling evidence to localize the creation of *lex generalis* as a term of legal art to the chancery of Theodosius I.¹⁷ He nevertheless finds some precedent for laws of general force in the text of Ulpian as preserved in the *Digest*, who twice discusses *generalialia...rescripta* (47.12.3.5, 28.5.9.2) and once a *generalis epistula* of Marcus and Commodus (11.4.1.2).

In Archi's first example, Ulpian wonders whether a *lex municipalis* could allow for internment of the dead within the city walls even in contravention of an imperial rescript (*rescripta principalia*).¹⁸ His answer is that the rescript in question is general in scope, and thus should be considered of similar force to a statute. Ulpian reasons that, therefore, even if there were a municipal law that allowed for internment within the city, nevertheless one cannot bury within the walls because of the prohibition of the imperial rescript. That is to say, his reasoning is a statement about the relationship between a *lex municipalis* and an imperial rescript, and not the state of rescripts *per se*, or the validity of statutes or rescripts in all cases. There is no doctrine of general law uncovered here.

Archi's finds a second 'precedent' at *D* 11.4.1.2, where Ulpian claims "There is also a general letter from the deified Marcus and Commodus which declares that governors, magistrates, and police must assist the owner in searching for runaways, both with returning them when they find them and with punishing the people on whose

¹⁷"Mi sembra che l'esame dei testi citati ci autorizzi a pensare che a cavallo tra il IV e il V secolo ricostruibili motivi concreti introducano nel linguaggio legislativo l'espressione *lex generalis*." Archi, *Teodosio II*, 75.

¹⁸*D* 47.12.3.5.

property they hide, if an offense is involved.”¹⁹ This is not a compelling precedent for legal *generalitas* because Ulpian here considers an *epistula* to be “general” only in the sense that it applies to *et praesides et magistratus et milites stationarios*, not that it applies to all people. Not only does this text not discuss the relationship between *leges* and *epistulae*, it does not discuss either in the sense of *generalitas* invoked in the *Code*.²⁰

I will add one more to the classical precedential *foci* for “generality:” Pliny the Younger’s letter to Trajan from the year 110 or 111, where the governor enquires about the legal status of “foundlings (θρεπτοί).” Pliny claims to have looked for imperial precedent that would be relevant to his particular situation in Bithynia, but found neither anything “either particular or universal which bore on Bithynia (*aut proprium aut universale, quod ad Bithynos referretur*).”²¹ He claims to have investigated edicts from

¹⁹ *Est etiam generalis epistula divorum Marci et Commodi, qua declaratur et praesides et magistratus et milites stationarios dominum adiuvere debere inquirendis fugitivis, et ut inventos redderent, et ut hi, apud quos delitescant, puniantur, si crimine contingantur. D 11.4.1.2.* Translations of the *Digest* throughout follow Watson.

²⁰ This argument is repeated, though without citation, in Harries, “«Sacra Generalitas» The Administrative Background to the Theodosian Code,” 36.

²¹ “Having investigated myself imperial pronouncements, and having found nothing either specific or universal that bears on Bithynia, I thought that I must consult you which to follow in this matter (*In qua ego auditis constitutionibus principum, quia nihil inveniebam aut proprium aut universale, quod ad Bithynos referretur, consulendum te existimavi, quid observari velles*)...” Pliny the Younger, *Letters*

Augustus, Vespasian, and Titus, as well as letters from Domitian to a wide variety of provinces and provincial governors, but Pliny remained at a loss as to the relevant procedure in his own province. Not only does he not appear to be aware of any standardized terminology of “generality” for the type of precedent for which he was looking, but the force of “*aut proprium aut universale quod ad Bithynos referretur*” suggests that Pliny thought it possible that a “universal” precedent nevertheless *did not* apply in Bithynia. This is, at very least, a concept of “universality” that strains credulity if “universality” is supposed to mean something like ‘applicable without distinction.’

Other commentators have discussed the relationship between *lex generalis* and other legal categories but, apart from Archi, a comprehensive discussion of the history of the concept has not been undertaken—seemingly because there is little material to work with in the classical sources for Roman law.²² As mentioned above, the *locus classicus* for discussions of the history of the concept of a general law is an article by Van Der Wal

10.65. Text and translation LCL 59.

²² Specifically, Wenger has a useful discussion of the relation between *leges generales* and other types of laws, but does not trace the history of the concept. Wenger, *Die Quellen des römischen Rechts*, 2:433–41. Likewise Kussmaul discusses *leges generales* only in so far as they interface with *leges pragmatici*, specifically whether a *pragmaticum* could contravene a general law. Kussmaul, *Pragmaticum und Lex*, 86–89. See also a cursory discussion of the evidence, and Honoré’s treatment of it, in Boudewijn Sirks, “Observations on the Theodosian Code: *lex generalis*, validity of laws.”

that is almost unanimously improperly cited, and which discusses the concept of *lex generalis* only insofar as it relates to the force and meaning of edicts, but not as a concept in and of itself.²³

On the other hand, significant work has been carried out on the relationship between specific cases which motivated particular rescripts and their application as general principles, especially between the reigns of Constantine and Justinian. Bianchini's *Caso concreto e «lex generalis»* constitutes a sustained attempt to understand this relationship. Her analysis has stood the test of time in clarifying the manner in which general rules were extracted from specific cases, but it does not investigate the intellectual history of the terminology or ideology of "generality" as it appeared under the Dominate.²⁴ Likewise, Sebastian Schmidt-Hofner has shown convincingly that, in reality, even statutes explicitly labeled as "general laws did not necessarily carry validity throughout the empire or in a large-scale administrative area like a prefecture."²⁵ My

²³ In fairness, the article is cited under its actual title by Honoré, *Law in the Crisis of Empire*; Sirks, *The Theodosian Code*; and Schmidt-Hofner, *Reagieren und Gestalten*.

²⁴ Bianchini's aim is "...cercando di mettere in luce il complesso e vario rapporto che intercorre fra caso concreto e norma generale, attraverso l'analisi di testimonianze che, pur di limitata consistenza numerica, coinvolgono, per il loro contenuto e per le tematiche ad esse sottese, i problemi di fondo connessi all'affermazione e all'assestamento della realtà nuova del dominato..." *Caso concreto e «lex generalis»*, 19.

²⁵ "...*leges generales* besaßen nicht notwendigerweise im gesamten Reich oder in einer

argument, on the other hand, concerns the intellectual history of the concept of “general law,” and not the history of its application. As I show below, the Theodosian definition of legal generality is founded on a doctrine of universalism, the application of particular laws notwithstanding.

There is one further salient aspect of the Theodosian concept of “general law” that deserves mention: it is not related conceptually to either the “law of nations” or to the abundant ancient discourses on “natural law.” This much is clear from Ulpian’s presentation of what constitutes “civil law.” “The *ius civile* is that which neither wholly diverges from the *ius naturale* and *ius gentium* nor follows the same in every particular. And so whenever we add anything to the common law, or take anything away from it, we make a law special to ourselves, that is *ius civile*.”²⁶ Papinian further defines *ius civile* as comprising “statutes, plebiscites, *senatus consulta*, imperial decrees, or authoritative juristic statements.”²⁷ Needless to say, the concept of *lex generalis* invoked by *CTh.* 1.1.5

großräumigen Verwaltungseinheit wie einer Präfektur Geltung.” Schmidt-Hofner, *Reagieren und Gestalten*, 23. Schmidt-Hofner continues on pages 23-34 with an excellent overview of the various ways in which appellations of *generalitas* operated as regards specific statutes, apart from doctrine. See also Harries, “«Sacra Generalitas» The Administrative Background to the Theodosian Code,” 35.

²⁶ *Ius civile est, quod neque in totum a naturali vel gentium recedit nec per omnia ei servit: itaque cum aliquid addimus vel detrahimus iuri communi, ius proprium, id est civile effícimus. D 1.1.6.*

²⁷ *Ius autem civile est, quod ex legibus, plebis scitis, senatus consultis, decretis*

refers to members of the class *ius civile* and, explicitly, not those of the class *ius gentium*. Further, even though the tradition of Greco-Roman legal theory from Aristotle onward has included a concept of “universal law,” universal laws in classical jurisprudential theory were always of the genus “natural” and contrasted with the law of particular peoples. The pattern holds from Aristotle’s *Rhetoric* onward,

Now there are two kinds of laws: some are particular, and others are general (τὸν μὲν ἴδιον τὸν δὲ κοινόν). By particular laws I mean those established by each people in reference to themselves (ἴδιον μὲν τὸν ἐκάστοις ὁρισμένον πρὸς αὐτούς), which again are divided into written and unwritten; by general laws I mean those based upon nature (κοινὸν δὲ τὸν κατὰ φύσιν).²⁸

Again the concept of a “general law” invoked in *CTh.* 1.1.5 is defined within the category of what Aristotle would call “particular law;” the “general law” of the Theodosian court could not have been conceptually dependent on the “natural law” or “universal law” of Aristotle, or that of Cicero.²⁹

There is no precedent in classical juristic writings for the Theodosian concept of “general law.” It appears as a technical term in the sense of a universally applicable

principum, auctoritate prudentium venit. D 1.1.7.

²⁸ Aristotle, *Rhetoric* 1973b4–8. Text LCL 193, from which the translation is also adapted. Aristotle goes on to clarify that even when similar concepts exist in both civil and natural legal systems (for instance the concept of what is “just”), they do not need to come to the same conclusion.

²⁹ For Cicero’s definition of universal, natural law, see *De re publica* 3.22(33).

subset of the *ius civile* only in the later fourth century, arising in the documentary record with a technical definition only during the reign of Theodosius II (*CI* 1.14.2,3). If Tony Honoré is correct in identifying the author of this constitution with Antiochus senior, chairman of the first *Theodosian Code* commission, then the connection between this technical definition of “general law,” interest in its clarification and promulgation, and its use as a conceptual frame for the *Theodosian Code* project becomes all the more clear.³⁰ Whether *CI* 1.14.2,3 presented the first technical definition of “general law” is uncertain—given that the definition appears in the context of a broader discussion of inheritance law, it seems like a strange place to roll out a new legislative tool.³¹ Interest in the universality of law and its applicability “generally” is a known ideological interest in the court of Valentinian III and Galla Placidia, however, and Honoré has demonstrated that Eastern officials in 426 and thereafter used legislation to propagate the ideology of the rule of law. A refinement of definition as we see in *CI* 1.14.2,3 fits perfectly well with the aims and methods of the court from which it was issued.³²

It is clear that one of the problems which the concept of “general law” addresses—the use of case-specific rescripts as legal precedent—is in evidence already from the

³⁰ Honoré, *Law in the Crisis of Empire*, 252–257.

³¹ Harries on the other hand thinks that the single *oratio* simply “covered two unrelated topics: the question of how justice was to be administered and categories of imperial law defined; and the law of succession.” Harries, “«Sacra Generalitas» The Administrative Background to the Theodosian Code,” 34.

³² Honoré, *Law in the Crisis of Empire*, 248–257.

reign of Constantine.³³ That is, there is some reason to believe that jurists already during the reign of Constantine made functional distinction between case-specific rulings and those that were more widely applicable.³⁴ From the early fourth century, as well, many constitutions were specifically ordered to be promulgated widely.³⁵ Ulpian too notes that some rescripts are precedent-setting and some are not.³⁶ But the choice of *this* conceptual tool—“general law”—as an answer to the above concerns is neither accidental nor historically necessary; rather, it reflects the scholastic language of a Christian imperial court.³⁷ The decision to invoke a concept of *lex generalis* and to cast civil law in its frame is hardly the only way to fix the issues outlined above. For one, a constitution clarifying that edicts and *orationes* are henceforth to be considered *generalis* without instituting a

³³ For instance, *CTh* 1.2.2, 315 C.E.

³⁴ Sirks argued as much in *The Theodosian Code*, 29–35.

³⁵ For instance *CTh* 11.27.1, 12.5.2, *Sirm.* 4.

³⁶ *D* 1.1.2

³⁷ See, for instance, an article by Gisella Bassanelli Sommariva, who argues that *leges generales* are not a new type of constitution created by Constantine’s chancery, but that the choice of this particular framing tool by the chancery of Theodosius II reflects the confluence of Christian and Neo-Platonic ideology that began in Constantine’s court, in which the imperial will was immediately supposed as universally normative. “*Leges generales*: line per una definizione,” 2. I disagree on the period in which this tool was first established among the canon of juristic practice, but Bassanelli Sommariva’s conclusions hold for a later period as well.

new category of “general law” would solve the issue in a more elegant manner, without multiplying categories.³⁸ Bianchini admits that even after the Ravenna law of 426 (the *Law of Citations*), the difference between a general law and a rescript remained “exceedingly vague if not non-existent,”³⁹ and that the *Theodosian Code* itself as reenvisioned in its second iteration (CTh 1.1.6) disregarded the directive in its strict reading.⁴⁰

The concept of the creation of a corporate body out of individual members of society and applying legal principles to them *en masse* already had a rich tradition of exposition under the heading *universitas*, which offers another plausible solution to the “problem” of case-specific rescripts and an ideology of universality without recourse to

³⁸ Wetzler offers a similar objection in *Rechtsstaat und Absolutismus*, 93–95.

³⁹ “...molto sfumata se non addirittura inesistente...” Bianchini, *Caso concreto e «lex generalis»*, 145.

⁴⁰ Bianchini, *Caso concreto e «lex generalis»*, 146. See also idem. 150n25, “Non si vuol con ciò negare l’esistenza di un collegamento fra la *lex* di Valentiniano e il progetto teodosiano, ma solo diversamente intenderlo: nel senso che Teodosio si è certamente ispirato alla *lex* del 426 nell’elaborazione del progetto del 429 e nella produzione legislativa corrente, accogliendone poi il testo nel CTh. come criterio cui informare l’attività normativa futura; ma non invece che la normativa ravennate trova piena e puntuale applicazione anche nel dettato di CTh. 1.1.6 e nella definitiva redazione del Codice teodosiano.”

generalitas as the necessary or obvious solution.⁴¹ Similarly, so-called “letter of Domitian” appended to the *Lex Irnitana* shows that mechanisms were in place and exploited already in the first century CE to appropriate “even the most informal of imperial pronouncements” and generalize them to new applications.⁴² There are any number of ways to deal with the problem of specificity of rescripts and legal precedent, or the need for laws to be widely disseminated; the choice of *lex generalis* as the conceptual framework for a solution is telling. It is telling because the concept, both formally and lexically, appears in our sources for the first time not in the writing of a jurist or legal scholar, but rather in the biblical exegesis of a first-century Jew so beloved by Christians of the fourth and fifth centuries that he was believed to have converted to Christianity later in life: Philo of Alexandria.

“General Law” in Christian Tradition

The text of Philo of Alexandria, like that of his contemporary Josephus, remains extant solely due to his assumption by Christian scribes and scholars in the third and fourth century, who saw in his exegetical method tools useful for interpreting the Hebrew Bible in ways amenable to their universalizing and supersessionist aims. So for instance, he writes that the two tablets of Exodus 32 were given by a “lawgiver (θεσμοθέτης),” and

⁴¹ *D* 1.3.4 is one example. See also *D* 1.8.1.0, 1.8.1.2, 1.8.1.6, 1.18.6.8.

⁴² Harries, “«Sacra Generalitas» The Administrative Background to the Theodosian Code,” 36. On the *subscriptio* itself, see Mourgues, “The So-called Letter of Domitian at the End of the *Lex Irnitana*.”

comprise “ten general laws (γενικῶν δέκα νόμων),” composed on two slabs as an allegory “to the rational and irrational (λογικῷ καὶ ἀλόγῳ)” halves of the human soul.⁴³ He returns to this theme and introduces a further distinction—between “general” and “particular” laws—in a teaching tractate titled *On Mating with the Preliminary Studies*.

In fact, among the concepts that animate Philo’s magnum opus *On the Special Law* is the difference between “general laws which god expounds (γενικῶν νόμων, οὓς προεφήτευσεν ὁ θεός)” and are given “to all humankind (πρὸς πάντας ἀνθρώπους),” and special laws which are available only “through an interpreter (δι’ ἐρμηνέως)” and have significance only to the nation of the Jews.⁴⁴ For Philo in this passage, the distinction between general and special law is operative on the level of class: special laws are those which are binding only on Jews, and are distinct from and legally subordinate to another category of general laws. Philo invokes the distinction between “general” and “special/specific” with slightly differing valences throughout his corpus, and later commentators in the Christian scholastic tradition took up his distinction in a variety of ways. It is the deployment of the distinction itself that is important for my purposes.

Little is known about the source known as Ambrosiaster (“would-be Ambrose”), but the contents of his *Notes on Paul’s letter to the Romans*, as well as other commentaries from the same pen, place the author’s floruit securely between 366 and 384

⁴³ Philo of Alexandria, *Who is the Heir?* (*Quis rerum divinarum heres sit*) 167. Text Wendland.

⁴⁴ *De specialibus legibus* 2.189-90. Text LCL 320.

C.E, in the city of Rome.⁴⁵ The quality of the Latin and the content of the commentary suggest that whoever Ambrosiaster was, he was highly educated, likely a native speaker of Latin, and he was intimately familiar with both Roman legal history and Christian exegetical scholarship.⁴⁶ In Romans 7:1, Paul deals with the relationship between the Hebrew Biblical law and those who are “in Christ.” Ambrosiaster’s commentary begins with a pertinent quotation from the New Testament: *An ignoratis, fratres, scientibus enim*

⁴⁵ The text is extant in three recensions. The Γ recension of the text, quoted here, was selectively edited (almost certainly by Ambrosiaster himself) as late as 384 C.E., though the differences between recensions in this section are immaterial to my argument. On dating see de Bruyn, *Ambrosiaster’s Commentary*, xiii–xxix, and on the phenomenon of post-publication revision that is particularly common among “Patristic” authors of the fourth and fifth centuries, see Cavallo, “I fondamenti materiali della trasmissione dei testi patristici nella tarda antichità,” 52–59. Because the author is anonymous I would traditionally prefer neutral pronouns, but as David Hunter rightly pointed out to me, Ambrosiaster’s sustained interest in and commentary on female subordination suggest that this author identified as male. Ambrosiaster claims Rome as a base of operations in both *Quaestiones* 115.16 (*SC* 512:168) and *Commentaria in Epistolam ad Romanos* 16:3–5 (*CSEL* 81.1:479).

⁴⁶ The quality of the Latin is evidenced by, among other things, the fact that it was mistakenly understood to be written by Ambrose through the modern period. For his part, Augustine thought that the commentary in question was written by Hilary (presumably of Poitiers).

legem loquor.

“Do you not know, brothers (I am speaking to those who understand law),” that in order to confirm their spirits in divine teaching, he uses the example of human law, thus again earthly things reinforce heavenly things, just as also god is known from the creation of the world. Because everything is of a piece, things often have similarities to each other in some ways, though they appear different. Thus, Romans understand law because they are not barbarians. Rather, they understand natural justice—partially on their own, partially from the Greeks, and partially from the Hebrews. Even so, law was not obscured before Moses, it merely had neither order nor credibility. In fact, the order of law was conveyed to Rome from Athens.⁴⁷ So [Paul] says to those not ignorant of law: Law rules over a person so long as he lives. It is no secret: every human life is under natural law, which was given to the world. This is “general law.” Though he declares another “special [law],” (it is also general, only being made special in so far as it is not undertaken by everyone), through which he intends to prove his claim.⁴⁸

⁴⁷ Here Ambrosiaster invokes a tradition recorded in Livy *Ab urbe condita* 3.31, where three men are sent to Athens to copy the laws of Solon.

⁴⁸ *An ignoratis, fratres, scientibus enim legem loquor. ut animos illorum firmet in doctrina divina, exemplo humanae legis utitur, ut iterum per terrena suadeat caelestia, sicut et a mundi creatura deus agnoscitur. quia enim unius est totum, licet diversae sint res, ex aliqua tamen parte sibi invicem similes sunt. sciunt ergo legem Romani, quia non sunt barbari, sed conprehenderunt naturalem iustitiam, partim ex*

In the ample history of theorization as to what, precisely, constitutes a general law, no modern commentator has cited this section, this work, or even this author—a surprising fact given the explicit statement *haec lex generalis est*, and even more so given that the sentiment is expressed in the context of Roman jurisprudence and composed on the eve of the Theodosian dynasty, when the concept of a “general law” first found regular deployment as a term of legal art.

Here, Ambrosiaster begins his discussion by signaling an intended audience: “those who understand law.” Lest the passage be understood to discuss *lex* in a merely symbolic or “religious” domain, Ambrosiaster begins the commentary on this section of Paul’s epistle by offering a brief historiography of Roman law from time immemorial through his own day in the late fourth century C.E. According to the author, in Paul’s text the purpose of this pericope is to introduce a legal distinction between “general law” (*lex generalis*) and laws that are “particular (*specialis*)—a distinction that is formally identical with the distinction made by Philo in *De specialibus legibus*, and likely dependent on it.

se, partim ex Graecis, partim ex Hebraeis. quamvis enim ante Moysen non latuerit lex, sed ordo non erat neque auctoritas. nam ordo legis Romanis ex Athenis perlatus est. non ignorantibus ergo legem dicit: Quia lex dominatur homini quanto tempore vivit. non est occultum omnem vitam hominis esse sub lege naturae, quae data est mundo. haec lex generalis est. nunc vero aliam proponit specialem, quamvis et ipsa generalis est, sed dum non recipitur ab omnibus, fit specialis, per quam vult probare adsertionem suam. Ambrosiaster, Notes on Paul’s Letter to the Romans (Commentarius in Pauli epistulam ad Romanos) 7.1. Text CSEL 81.

That is, for Ambrosiaster and Philo both, “general laws” (*leges generales*) are those “which are given to the world” (*quae data est mundo*) and which apply to all, distinctions of class/gender/location notwithstanding. General laws remain in force even in the context of special laws, and thus supersede them. For their part, special laws are those which are given to particular groups of people. Ambrosiaster himself underlines this aspect of the special/general distinction with his interjection in the last line of the quotation above. He makes clear that “special” law is understood as generally applicable for those *within the relevant class*: it is “not undertaken by everyone.”

It is interesting to note that Ambrosiaster, as well, has been plausibly suggested as the compiler of the *Comparison of Mosaic and Roman Laws* (*Collatio legum Mosaicarum et Romanarum*).⁴⁹ I will not wade into the debate here, except to say that the author of both texts had an acute knowledge of classical Roman jurisprudence, and an interest in reconciling it with Christian concept of *lex*; the list of possible authorial attributions for the *Comparison* is short.

One of Ambrosiaster’s highly-placed contemporaries took up the distinction between “general” and “particular” laws. We can say something more substantial about Gregory of Nyssa: he was a bishop during the reign of Theodosius I, and he was part of a complex web of interrelations between members of the eastern Court and the episcopate in the waning years of the fourth century. Gregory also invokes the distinction of general/special laws, distinguishing between laws that are binding on humanity (those

⁴⁹ Wittig, *Der Ambrosiaster “Hilarius”*. See also Souter, *Pseudo-Augustini*, xxiii;

Heggelbacher, *Vom römischen zum Christlichen Recht*, 144–5.

found in the Decalogue) and laws which are binding only on Christians: again invoking a class distinction between the two types of law.⁵⁰

Gregory published the text as part of his homilies on Ecclesiastes sometime around 380 C.E. The distinction between general and specific law carries on in elite Latin works of the fifth century, as well—written by such men as Augustine, whose formal legal training was not insignificant.⁵¹ Augustine picks up the same distinction and deploys it to yet another end, contrasting the differing senses of “law” in the Latin Bible around 415 C.E.⁵² In *Questions on the Heptateuch*, he discusses actions of Abraham done according to “special law” versus those he did according to “general law.”⁵³ He deploys the

⁵⁰ “If someone is investigating the meaning of sin, we shall surely say that one should not do anything against one’s neighbor. For example, ‘You shall not commit adultery, you shall not commit murder, you shall not steal,’ and the other things about which there is a general and comprehensive law, which includes within it each particular law (ὁν γενικός τις καὶ περιληπτικός ἐστι νόμος τὰ καθ’ ἕκαστον ἐν αὐτῷ περιέχων)—the one about ‘loving one’s neighbor as oneself.’” Gregory of Nyssa, *Homilies on Ecclesiastes* (*In ecclesiasten homiliae*) 8 (393-4). Text Alexander.

⁵¹ Humfress, “Patristic Sources,” 102.

⁵² Augustine, *Tractate on John’s Gospel* (*In Iohannis evangelium tractatus*) 48.9. Text CCSL 36.

⁵³ Gregory of Nyssa, *Questions in the Heptateuch* (*Quaestionum in heptateuchum*) 7.49.5. Text CPL 270.

distinction polemically, too, in his *Against the Letter of Parmenion*.⁵⁴

A full accounting of Christian theorization about the connection between law, “generality,” and universality is beyond the scope of this chapter. The distinction is found throughout the field of early Christian scholarship: Hippolytus commented in the early third century on an anonymous “Naassene hymn” of the early second century, which declares that the “primal intellect of the cosmos is general law.”⁵⁵ Origen’s mid-third century *Selections in Psalms* declares that “The commandment of the Lord is of the species ‘general law.’”⁵⁶ During the reign of Constantine, Calcidius connected the concepts of general law and universality, without distinctions of class, in his *Commentary on Timaeus*.⁵⁷ Likewise, Constantine’s biographer Eusebius speaks in his *Commentary on the Psalms* of “laws named ‘general.’”⁵⁸ John Cassian makes the same connection in his

⁵⁴ Gregory of Nyssa, *Against the Letter of Parmenion* (*Contra epistulam Parmeniani*)

1.12. Text CPL 331.

⁵⁵ Νόμος ἦν γενικὸς τοῦ παντός ὁ πρῶτος Νόος. Hippolytus, *Refutation of All Heresies*

5.10.2. Text Marcovich.

⁵⁶ Ἡ ἐντολὴ Κυρίου ἐν εἵδει γενικοῦ νόμου ἐστὶν ἐντολή. Origen, *Selecta in Psalmos* 18.

Text PG 12.1244B. The ancient Latin translation reads *Praeceptum domini in specie est praeceptum legis generalis*. Text PG 12.1243B.

⁵⁷ Calcidius, *Commentary on Plato’s Timaeus* (*Commentarius in Platonis Timaeum*)

179. Text CPL 579.

⁵⁸ γενικῶ ὀνομασμένῳ νόμῳ Eusebius, *Commentaries on the Psalms* (*Commentaria in Psalmos*) 23.193. There is some doubt as to the authenticity of this text, but no

Conlationes around 420 C.E.⁵⁹ Jerome discusses the idea of generally applicable divine law in his *Commentary on Galatians* written in 394/5 C.E.,⁶⁰ and further about the relationship between the *leges Cesarum* and *leges Christi* in his letters—a distinction to which I return below.

A survey of the available evidence demonstrates that, before the concept of a “general law” was conceived as a foundational distinction in Roman jurisprudence, it was operative and often deployed by elite Christians who were trying to adjudicate the relationship of the “Torah” (law) of the Hebrew Bible with their new, increasingly gentile movement. The general/specific distinction is found first in the text of Philo, the most beloved Jewish exegete among late ancient Christians. By the fourth century it was integral to Catholic Christian doctrine in both the Greek East and the Latin West, and it was used by men of imperial power with close connections to both courts, all of whom were actively engaged in projects to understand the relation between case-specific and generally applicable law: both divine law and imperial law.

The Theodosian Code and “General Law”

The term *lex generalis* first appears in a purely juristic source in an imperial constitution of Constantine promulgated in 321, concerning eligibility of Jews to serve in the *curia*. Many commentators have wondered over the odd language of the constitution

decision can be made before a critical edition of the manuscript has been completed.

⁵⁹ John Cassian, *Collections (Conlationes)* 23.11. Text *CPL* 512.

⁶⁰ Jerome, *Notes on Galatians (Commentarii ad Galatias)* 2.5.4. Text *CCSL* 77A.

as it is recorded in the *Theodosian Code*, beginning improbably as it does an invocation of “general law” (*generali lege*).⁶¹ If this constitution did indeed begin with “We order by general law...” it is an outlier. Archi wondered whether the seemingly anachronistic terminology could be explained by the editorial work commanded in *CTh* 1.1.6,⁶² and Caseau,⁶³ Pietri,⁶⁴ and Freu⁶⁵ have all adduced other places in book sixteen specifically where constitutions have been edited in line with Christian doctrinal terminology.⁶⁶ So

⁶¹ “By a general law we permit all municipal senates to nominate Jews to the municipal council. But in order that something of the former rule may be left them as a solace, we extend to two or three persons from each group the perpetual privilege of not being disturbed by any nominations.” *CTh* 16.8.3.

⁶² “We grant to those men who are about to undertake this work the power to remove superfluous words, to add necessary words, to change ambiguities, and to emend incongruities (*adgressuris hoc opus et demendi supervacanea verba et adiciendi necessaria et demutandi ambigua et emendandi incongrua tribuimus potestatem*).” *CTh* 1.1.6. Archi wonders “Sono, quelle parole, una anticipazione del futuro o un addentellato col passato?” Archi, *Teodosio II*, 69.

⁶³ Béatrice Caseau, “L’adjectif *profanus* dans le livre XVI du Code Théodosien.”

⁶⁴ Charles Pietri, “Les pauvres et la pauvreté dans l’Italie de l’Empire chrétien (IVe siècle).”

⁶⁵ Christel Freu, “Rhétorique chrétienne et rhétorique de chancellerie.”

⁶⁶ “L’évolution du vocabulaire utilisé par la chancellerie témoigne très rapidement [to the influence of Catholic Christians in legal domains]... l’usage des mots *ecclesia* et

this Constantinian constitution may or may not have begun with an invocation of “general law;” in any event, the text of this one constitution needn’t hold us here. The terminology of “general law” does not show up again in an imperial constitution until the reign of Honorius, and does not appear consistently until the last years of Theodosius I’s reign.⁶⁷ The selection process involved in producing the *Theodosian Code* on the basis of

clericus illustre l’influence du christianisme sur la culture juridique.” Pietri, “Les pauvres et la pauvreté dans l’Italie de l’Empire chrétien (IVe siècle),” 210.

⁶⁷“Negli ultimi anni di Teodosio I e di poi con i suoi successori, tanto nella cancelleria della pars Occidentis quanto in quella della pars Orientis, noi vediamo affermarsi e sistematicamente consolidarsi il termine *lex generalis*. Le costituzioni, che attraverso ‘Index’ del Gradenwitz ho potuto raccogliere, sono dodici e vanno dal 392 al 423.” Archi, *Teodosio II*, 72. Lucio De Giovanni asserts, without offering evidence for the reading, a number of “*leges generales*” from Constantine’s reign. The supposed “general laws” include *CTh* 1.4.1, which is supposed to constitute “proprio in una *lex generalis* del 321,” though I cannot see any reason for the designation based on the text of the statute or the argumentation of the chapter. De Giovanni, “Il diritto prima e dopo Costantino,” 230. De Giovanni is certainly correct to point out that “Nella legislazione dei precedenti imperatori del III secolo, invece, non è mai adoperata, per indicare il documento imperiale, l’espressione *lex*, ma sono utilizzati i termini usuali *edicta*, *mandata*, *rescripta*, insieme con le enumerazioni tradizionali delle fonti, *leges*, *senatusconsulta*, *constitutiones*; nell’età di Diocleziano, è il *rescriptum* la forma con la quale di solito si estrinseca l’attività normativa imperiale. Tra la fine del IV e gli

“general law” should render incidences of the terminology *more* prevalent in the corpus, and not less—suggesting further that the few pre-Theodosian usages of the term are outliers.⁶⁸

Sirmondian 12 mentions a series of “general laws against the Donatists, the Manicheans, and other such heretics or pagans” given in the years before 408;⁶⁹ but the term itself, as one of legal art, appears to be new to the Theodosian era. The fact that Theodosius II and Valentinian III issued a constitution⁷⁰ (the *Law of Citations*) in 426

inizi del V secolo, si afferma, dunque, e si consolida sistematicamente, l’uso dell’espressione *lex generalis*.” *idem*. 228.

⁶⁸ Sirks intimated as much in “Observations on the Theodosian Code: *lex generalis*, validity of laws,” 147–8.

⁶⁹ ...*generalibus legibus contra Donatistas, Manichaeos adque huiuscemodi haereticos vel gentiles...* *Sirmondian* 12. Text Mommsen. The same constitution claims that the emperors “have issued with the authority of general laws against the Donatists, who are called Montenses, against the Manichaeans or the Priscillianists, or against the pagans (*in Donatistas, qui et Montenses vocantur, Manichaeos sive Priscillianistas vel in gentiles a nobis generalium legum auctoritate decreta sunt*)...”

⁷⁰ Bassanelli Sommariva, *La legge di Valentiniano III del 7 Novembre 426*, 285–7, argues that these comprise two separate constitutions that happen to have been issued on the same day. I am persuaded, however, by Wetzler, *Rechtsstaat und Absolutismus*, 96–7, that these two fragments issue from the same constitution. I, with most, accept the standard interpretation (first proposed in 1655 by Jacques Godefroy [Iacobus

which precisely defined the term and its legal force, first negatively and then positively, suggests that no established discourse of legal theory defined precisely what constituted a “general law.”⁷¹

The same *Augusti* to the Senate. Laws that are contained in a legislative proposal (*oratio*) sent to your venerable assembly or that are called “edicts” with that term inserted, no matter whether a spontaneous impulse has suggested them to Us or a

Gothofredus], *Codex Theodosianus*, 33) that *CTh* 1.4.3, *CI* 1.14.2, 1.14.3, 1.19.7, and 1.22.5 are fragments of a single constitution. My contention, however, does not rest on a single adjudication of this thorny issue—whether the legislation of November 426 involved one constitution on inheritance and another on sources of law, or whether they are one-and-the-same only affects the interpretation of these statutes in themselves, and has little bearing on the appropriation of the language in *CTh* 1.1.5 and 1.1.6.

⁷¹ “Emperors Theodosius and Valentinian *Augusti* to the Senate. What we have decided with regard to a case brought before the common court of the most eminent noblemen of Our Sacred Palace, pursuant to reports and inquiries sent to consult (Our opinion); or what We have granted to any manner of corporation, or to ambassadors, or to a province, city, or curia, are not general law but are laws only for those cases and persons for whom they have been promulgated (*nec generalia iura sint, sed leges fiant his dumtaxat negotiis atque personis, pro quibus fuerint promulgata*) and they shall not be reconsidered by anyone. Given at Ravenna November 6 (426).” *CI* 1.14.2. Translations of the *Justinianic Code* are adapted from Blume/Frier.

petition or report or pending lawsuit gives occasion for them, in the future shall be obeyed (*in posterum observentur*) as general laws (*leges generales*) equally by all (*ab omnibus aequabiliter*). For it is sufficient that the laws be distinguished by the designation “edict” or published for all peoples in the edict of the provincial governors, or that it be stated in them explicitly that what the Emperors have decided in specific lawsuits should decide the fate of similar cases. Also if a law is called “general” or is ordered to apply to all people, it shall have the force of an edict (*Sed et si generalis lex vocata est vel ad omnes iussa est pertinere, vim obtineat edicti*). Interlocutionary decisions, which We have issued or shall afterwards issue while trying a single case, shall not have the force of precedential rulings, and special grants to specific cities, provinces, or legal persons shall not be considered general (*nec his, quae specialiter quibusdam concessa sunt civitatibus vel provinciis vel corporibus, ad generalitatis observantiam pertinentibus*).⁷²

This *Law of Citations* was given from Ravenna on the 7th of November 426,⁷³ nearly three years before the commissioning of the *Theodosian Code* on the basis of the “general

⁷² *CI* 1.14.3. That these two fragments are compiled separately in *Codex Iustinianus* only underlines the technical nature of the distinction invoked, even though they were apparently excerpted from the same constitution.

⁷³ According to Otto Seeck’s revised date. Seeck, *Regesten der Kaiser und Päpste für die Jahre 311 bis 476 n. Chr.*, 352.

law” concept.⁷⁴ The constitution demonstrates that the chanceries of Valentinian III and Galla Placidia in the West were interested in offering a technical definition of “general law” as a term of legal art, perhaps in order to reign in its use by jurists and others with a wide array of significations in the years leading up to its first extant definition,⁷⁵ and perhaps as a way of messaging an expansive ideology of rule of law known elsewhere from this chancery and from its counterpart in the East. Wetzler concluded as much twenty years ago, when he offered a plausible context for the law mired in a thicket of inheritance and citational law that was used as a springboard to begin the process of legal

⁷⁴ It is nearly certain that the constitution stood originally in the Theodosian Code.

Matthews, *Laying down the Law*, 66.

⁷⁵ De Giovanni has noted the increasing specificity of the concept through the late fourth and into the beginning of the fifth century. “Tra la fine del IV e gli inizi del V secolo, si afferma, dunque, e si consolida sistematicamente, l’uso dell’espressione *lex generalis*. Il sostantivo *lex* ha già di per sé una sua pienezza nell’indicare la norma vincolante per tutti i sudditi, l’aggettivo *generalis* costituisce un rafforzativo che conferisce a esso ulteriore chiarezza e incisività, e ciò soprattutto nei casi in cui la cancelleria imperiale voglia in modo particolare rimarcare i caratteri dell’astrattezza e dell’impersonalità della norma o fare in modo che una legge emanata per un caso particolare abbia poi una valenza generale o, ancora, eliminare ogni dubbio circa l’applicabilità di una norma non in un determinato territorio ma in un’area geografica più generale.” De Giovanni, “Il diritto prima e dopo Costantino,” 228–9.

reform centered on the concept of “generality.”⁷⁶ He concludes,

In general, the Ravenna legal-sources legislation of November 426 [the *Law of Citations*] bears the signature of a professional jurist, and announces a new style of legislation. However, it is not the targeted prelude to a long-planned legislative project... What we have before us is an *ad hoc* solution born of the situation. The problem is recognized as such, and it is taken care of as expeditiously as possible. Ravenna had no power to accomplish more. There is no continuation. Nevertheless, the measure certainly had some effect on the imperial chancery of the West. Laws passed subsequently are in fact formulated so that they can be identified as such with the help of the catalogue of criteria established in November 426.⁷⁷

⁷⁶ *Rechtsstaat und Absolutismus*, 96–108.

⁷⁷ “Allgemein gesagt trägt zwar die ravennatische Rechtsquellen-Gesetzgebung vom November 426 die Handschrift eines professionellen Juristen und kündigt einen neuen Stil in der Gesetzgebung an. Doch ist sie nicht der gezielte Auftakt zu einem von langer Hand geplanten legislativen Vorhaben... Was wir vor uns haben, ist eine aus der Situation geborene *ad hoc*-Maßnahme. Das Problem ist als solches erkannt, und man nimmt sich seiner an, so gut es eben auf die Schnelle möglich ist. Zu mehr reichen die Kräfte in Ravenna nicht. Hier gibt es keine Fortsetzung. Dennoch kann man der Maßnahme nicht jede Wirkung auf die kaiserliche Kanzlei des Westens absprechen. Die in der Folgezeit ergangenen Gesetze sind tatsächlich so formuliert, daß sie sich mit Hilfe des im November 426 aufgestellten Kriterienkatalogs als solche identifizieren lassen.” *Ibid*, 108.

A problem faced jurists in the Western chancery who were responsible for the first formal definition of “generality,” and they used readily available concepts and language to solve it. It is simply the case that the language and the framework most readily available to them was not strictly the result of an internal revolution in juristic thought and praxis, but was imported from another tradition readily present in the Western court: the tradition of theological disputation.

The force of *in posterum observentur* in *CI* 1.14.3 further clarifies that whether the law is a restatement of what is already in effect, as is often the case with imperial constitutions, that henceforth, when deployed in constitutions, the term “lex generalis” is to have a purely technical meaning, such that it is of the same power as a “lex edictalis.” Bassanelli Sommariva has concluded as much already. “This reading of *CI* 1.14.2, 1.14.3, 1.19.7, 1.22.5 in fact gives rise to the impression that the chancery was concerned with regulating only the future, that is, it concerned itself with imperial constitutions that would have been issued from that moment onward.”⁷⁸ Archi pointed out that before the

⁷⁸ “La lettura di *CI*. 1.14.2, 1.14.3, 1.19.7, 1.22.5 suscita invero l’impressione che la cancelleria si sia preoccupata di statuire solo de futuro, cioè si sia interessata soltanto delle costituzioni imperiali che sarebbero state emanate da quel momento in poi.” Sommariva Bassannelli, *La legge di Valentiniano III del 7 Novembre 426*, 289. She continues “In conclusione l’esame testuale della costituzione di Valentiniano III può essere condotto assumendo come premessa valida l’ipotesi che la cancelleria ravennate abbia inteso regolare l’intero complesso delle costituzioni imperiali successive a Costantino, quelle precedentemente emanate ed ancora in vigore e quelle

promulgation of this constitution, “among Roman sources there is no equivalent to such a precise position.”⁷⁹ But Archi’s statement, I have demonstrated, only holds true if one’s definition of “Roman sources” excludes the mass of Roman Christian theorization on precisely this topic, where the distinction was invoked with different valences from what we see in the *Law of Citations*, but with no less degree of sophistication or precision.

Each of the ancient scholars surveyed above holds a different view of the distinction between “general law” and law of another type. There is daylight between, for instance, the concept of “general law” as defined in *CI* 1.14.3,4 and Ambrosiaster’s own conception of “general law.” For that matter, neither the chancery of Theodosius II nor Ambrosiaster use the distinction between “general law” and other types of law in the same way that it was originally meant Philo. Furthermore, the *Theodosian Code* that was proposed in 429 (1.1.5) took up the definition of “general law” as defined and promulgated in the 426 *Law of Citations*, but the revised *Theodosian Code* project of 435 (1.1.6) disregarded it. In other words, nearly every time it is invoked, the concept of “general law” means something slightly different: even in the constitutions calling for the creation of the *Theodosian Code*. The fact of multi-valence does not make the slightest bit of difference for the purpose of my argument. I am not arguing that any jurist in the chancery of Theodosius II read any Christian scholarly source and reflexively, and woodenly applied the concept to their own work in a legal domain. The Juristic

future.”

⁷⁹ “...nelle fonti romane non ci sono equivalenti a una così puntuale presa di posizione.”

Archi, *Teodosio II*, 15.

invocation of the concept of a general law shows, rather, that the *language* of Christian scholarship had so suffused the language of the court that jurists assumed a distinction that was current in Christian scholarship and redeployed it in the domain of law. The shifting signification of *lex generalis* in application does not invalidate its intellectual lineage traceable to Christian usages.

An analogous case, from more recent history, is the assumption of Thomas Kuhn's coinage "paradigm shift" in modern English parlance. The term was initially defined in 1962, in Kuhn's *The Structure of Scientific Revolutions*. It had a specific, technical meaning that has been debated, expanded, and resignified within the literature of the history of science in the 60 years since Kuhn's initial publication. The term "paradigm shift," however, has been transferred from this technical domain of the history of science into more general usage, especially among scholars in the humanities. To read any contemporary humanities article that uses the term "paradigm shift" as a direct invocation of *The Structure of Scientific Revolutions* would be dramatically over-interpreting a relatively domesticated phrase. To try to understand the history of the phrase without reference to Kuhn's work, on the other hand, would be utterly myopic. So it is with the concept of "general law" as invoked in *CTh* 1.1.5.

Edictorum viribus aut sacra generalitate subnixas

In 429 C.E., Theodosius II and Valentinian III called for a new compilation of new law code "based on the structure of the Gregorian and Hermogenian codes," and which comprised imperial constitutions that "rest on the force of edicts or on sacred imperial general law/generality." Bianchini notes that the specification in of *sacra generalitate* in

1.1.5 refers to the intention of the emperor to promulgate a general law, distinct from the more flexible invocation of *generalitas* invoked for the revise *Theodosian Code* project (1.1.6), which required the compilation of laws that were *generalis observantia*.⁸⁰

The *Theodosian Code* was intended to be compiled *ad similitudinem*, “based on the structure” of the Diocletianic codices, but the statute makes clear that the Theodosian product was to hold a fundamentally different status than the previous codices.⁸¹ It was to comprise the first step toward the creation of yet another code, which “shall permit no error, no ambiguities” and which “shall be called by our name (*qui nostro nomine nuncupatus*) and shall show what must be followed and what must be avoided by all.”⁸² The final *Theodosian Code* as we have it was precisely intended for *diligentiores*, for

⁸⁰ “Si noti, altresì, che in CTh. 1. 1. 5 la *generalitas* era accompagnata dalla specificazione sacra, da ricollegare pertanto ad un’espressa manifestazione di volontà dell’imperatore e a un dato formale; mentre in CTh. 1.1.6 pr. la qualifica *generalis* sembra piuttosto concernere l’attitudine alla *generalitatis observantia* da valutarsi caso per caso; tanto più che si passa poi a specificare e proprio con richiamo a disposizioni ‘in certis provinciis seu locis valere aut proponi iussae’.” *Caso concreto* e “*lex generalis*,” 152.

⁸¹ The structure of the Diocletianic codes, in turn, was perhaps based on the structure of the Hadrianic *edictum perpetuum*, on which see Kaius Tuori, “Hadrian’s Perpetual Edict: Ancient Sources and Modern ideals in the Making of a Historical Tradition.”

⁸² ...*qui nullum errorem, nullas patietur ambages, qui nostro nomine nuncupatus sequenda omnibus vitandaque monstrabit. CTh 1.1.5*

“more industrious types,” and it was to serve as the basis for a universal statement of jurisprudential orthodoxy that defined the bounds of the law, and to carry the name of the emperor as a sign of its authoritative status.⁸³ It was meant as the basis for a codification, in the sense of an authoritative compilation. Whoever Gregorius and Hermogenian were, they were certainly not emperors and their products did not carry the weight of juristic authority, nor were apparently intended to do so. The Gregorian and Hermogenian were codices, but they were not codes.⁸⁴ The *Theodosian Code* is styled on the pattern of the earlier codices, but by its own admission the status of the final product was intended to be fundamentally different from its exemplars.

There is, in fact, evidence of a Constantinian project that looks significantly like the Gregorian and Hermogenian codes *in nuce*. The *Life of Constantine* 3.24.1–2 envisions a

⁸³ Sirks, *The Theodosian Code*, 5–6 makes a compelling case that these earlier codices likely did *not* include outdated laws, at least not purposefully as part of their design. Pages 147–151 offer the range of possibilities as to whether the final product, as (re)envisioned in *CTh* 1.1.6 and appearing in the manuscript tradition in fact comprises only valid law, or also comprises disused law. In any event my interest is in the framing and stated intention, and later collections like the *Summaria Antiqua* regularly note in the margins laws which were old and disused by *haec inutilis est* or *superflua*. If the Theodosian code did include only valid laws in 438, it did not long remain that way. The project as it was used, at least, and as it was received, both necessarily and evidentially included laws known to be disused.

⁸⁴ Sirks, *The Theodosian Code*, 4–5.

“special collection” (οικείας ὑποθέσεως) of imperial rescripts regarding the Church written by Constantine. What is clear from Eusebius’s proposal is that this “collection” would be intended for use by interested parties and as an addendum to his encomium, rather than as a promulgation of imperial law. Whether Eusebius had the Diocletianic codes in mind, he proposed another collection of imperial rescripts that appears substantially similar to the *Hermogenian* and *Gregorian codices*, and substantially different from project proposed in *CTh* 1.1.5.

By the time that the *Theodosian Code* project was announced, there had already been three centuries of theorization as to what, precisely, constitutes “general law,” and the term had been defined as one of legal art just three years prior. The theorizing did not occur, however, in the writings of Ulpian, or of Paul the Jurist, but more often than not through exegesis of Paul the Apostle. John Matthews has rightly pointed out that “general law” was not, apparently, a particularly effective conceptual frame when it came to the day-to-day work of the *Theodosian Code*’s compilers. Of course, the structural element of the Code’s production was defined by the beginning of *CTh* 1.1.5, and Matthews is right to suggest that “All the edicts and general *constitutions that have been ordered to be valid or to be posted in definite provinces or in districts...*”⁸⁵ of the revised plan in 1.1.6 was meant as a clarificatory addendum, because the revised *Theodosian Code* project (in 435, 1.1.6) departed from the strict definition of generality promulgated the *Law of*

⁸⁵ *Omnes edictales generaesque constitutiones vel in certis provinciis seu locis valere aut proponi iussae... CTh* 1.1.6.

Citations (CI 1.14.2–3).⁸⁶ But the choice of the language of “generality,” whether it was particularly effective in carrying out the task, nevertheless points to the *Code*’s idealized conceptual setting; there is certainly an interesting gap between the conception of the *Code* and its execution, but the fact of the gap itself does offer much insight into the initial intention of the project.

Christian influence on parts of the *Code*, and the wording of constitutions that it contains, has been demonstrated time and time again. I argue here that even the animating structure of the work that was called for in *CTh* 1.1.5 already demonstrates the extent to which Catholic Christian ideas had suffused the epistemology of the Theodosian court. Jerome was certainly right in 399 C.E. to opine that “Caesar’s laws differ from Christ’s. Papinian prescribes one thing, and our own Paul another.”⁸⁷ But language of the Theodosian constitutions preserved in *CI* 1.14.2,3 defining the concept of “general law” for the legal domain, and the constitution calling for the compilation of the *Theodosian Code* itself, both speak to the fact that by the mid 420s, “Caesar’s laws” operated in an epistemic and juristic-theoretical environment deeply inflected by scholarship on “Christ’s laws.” In other words, an epistemic distinction between theological and juristic

⁸⁶ Matthews, “The Making of the Text,” 29. See Matthews’s full discussion on 25–30.

See also Bianchini’s comments on the issue in note 40.

⁸⁷ *Aliae sunt leges Caesarum, aliae Christi; aliud Papinianus, aliud Paulus noster praecipit.* Jerome, *Letters (Epistulae)* 77.3. Text *CSEL* 55. For analysis of the interchange of ideas (and perhaps insults) between Jerome and Ambrosiaster in the early years of the Theodosian dynasty see Vogels, “Ambrosiaster und Hieronymus.”

scholarship of the later Theodosian age fails to attain.

For Jerome, the sense in which “Laws of Caesar” and “Laws of Christ” differ is precisely that “Laws of Caesar” make class and gender distinctions, while *leges Christi* apply universally—that is, “Laws of Christ” are, by nature, given on the condition of generality. He claims that the “Laws of Caesar”⁸⁸ operate “as if culpability rested upon the rank of the victim, not the will of the perpetrator...” But according to the Laws of Christ, Jerome clarifies, “...what is unlawful for women is unlawful for men, just the same. And as both serve, they are assessed on the same conditions.”⁸⁹ Priscus of Panium echoed the same concern and argument in the context of τὸν τοῦ δικαίου εὐρετὴν θεὸν. He claimed that “The laws apply to all, and even the Emperor obeys them.”⁹⁰ The Western quaestor of 425–6 insisted on the same notion of universal jurisprudence: “they shall be subservient to all of the laws, to which even the emperors are subject.”⁹¹

Avenues of exchange for this type of scholastic knowledge are not hard to imagine, either—in fact, we needn’t “imagine” a connection between theological and juristic

⁸⁸ Jerome invokes Papinian as a synecdoche for classical jurisprudence *writ large*.

⁸⁹ ...*quasi culpam dignitas faciat, non voluntas. Apud nos, quod non licet feminis, aequae non licet viris; et eadem servitus pari conditione censetur*. Jerome, *Letters (Epistulae)* 77.3.

⁹⁰ Fragment 8.550-2. (ed. Bornmann) Translation Blockley, *The Fragmentary*

Classicising Historians of the Later Roman Empire. On this trend see also *CI* 1.14.4.

⁹¹ *CTh* 10.26.2. On the identity of this quaestor see Honoré, *Law in the Crisis of Empire*, 252–7.

scholarship; the connection appears directly in our sources. Members of the *Theodosian Code* commission had direct and substantial links with members of the highest echelon of Christian theological scholarship of the day. *Antiochus vir inlustris quaestor sacri palati*, the same responsible for the definition of legal *generalitas* in 426, was a member of both the first and second *Theodosian Code* commissions, as well as being a drafter and the two constitutions calling for the compilation of the *Theodosian Code* (in 429 and 435)⁹². But his work in the chancery of Theodosius II was not relegated solely to juristic pursuits. He also corresponded with both Theodoret and Nestorius: perhaps the two of the most influential theological minds of the 420s in Antioch and Constantinople, respectively.⁹³ Antiochus's ongoing relationship with Nestorius is borne out by arranging safe passage through Asia and Pontica for Nestorius⁹⁴ and, perhaps, his arrangements made on behalf of Celestine I, bishop of Rome.⁹⁵ Theodorus, *vir spectabilis, comes sacri nostri consistorii*, was on both commissions as well.⁹⁶ He is, in all likelihood, identical with the Theodorus ὁ μεγαλοπρεπέστατος ἀπὸ κνεστόρων present at the Council of Chalcedon.⁹⁷ Likewise Apollodorus, a member of the second commission, is almost certainly the same

⁹² *PLRE* II, Antiochus 7.

⁹³ Theodoret *Epistle* 33.

⁹⁴ *ACO* 1.1.7 (p. 71n55).

⁹⁵ Celestine, *Epistle* 13.2.

⁹⁶ *PLRE* II, Theodorus 24.

⁹⁷ *ACO* 2.1.2 (p. 139).

Apollodorus present at the Council of Chalcedon.⁹⁸ The legal scholars tasked with the compilation first of Theodosius's "guide to life", and then the more modest *Theodosian Code*, were not interlopers in the word of elite Christian theological scholarship—they were part of it.

I wrote above about the plurality of definitions of "general law" in scholarship of the second through fifth centuries; this diversity of uses for the term did not continue. While a variety of uses are witnessed in the years before 426, we can see the reticulated nature of imperial and ecclesiastical scholastic networks precisely in the fact that the definition of *lex generalis* appearing in the 426 *Law of Citations* (CI 1.14.2,3) was assumed not only in subsequent juristic legislation, but also in language legislating the faith of the Catholic Church. At the Council of Chalcedon held in 451 C.E., the accused bishop Dioscorus attempted to (at least) share blame for heresy with the rest of the bishops who attended the council he was defending, which was held two years before in Constantinople. He complained,

We pronounced judgment accordingly, and the whole council gave its assent...the matter was referred to the most pious emperor Theodosius [II] of blessed memory, who confirmed all the judgements of the holy and ecumenical council by a general law (ἐβεβαίωσε πάντα τὰ κεκριμένα παρὰ τῆς ἁγίας καὶ οἰκουμενικῆς συνόδου νόμῳ γενικῶι.)⁹⁹

Here, the official record of the council of 451, compiled and authorized by the court

⁹⁸ *PLRE* II, Apollodorus 5.

⁹⁹ *ACO* 2.1.1.53

chancery of Theodosius II, claims that decisions of the council held in 449 were conveyed to the late emperor, who in turn promulgated them as “general laws (νόμοι γενικῶι).”¹⁰⁰ Lest the Greek text of the proceedings obscure the technical nature of this pronouncement by the emperor, it will prove useful to reference the translation of the *acta* produced some time after the council to circulate in the West: *confirmavit omnia quae iudicata sunt a sancta et universali synodo, generali legi*.¹⁰¹

Given the date and provenance of this Latin court document, there can be no doubt that we have here evidence of a Christian re-importation of the newly ‘juridified’ concept of “general law” back into Christian theological discourse. This text demonstrates clearly that in 451, Christian bishops considered their synodal decrees to be legally commensurate with the *Code* that Theodosius had promulgated in 438. And after the

¹⁰⁰ This is a significant departure from the status of synodal decrees beginning during the reign of Constantine, in which Eusebius reports that the emperor “affixed his seal on the decrees of bishops made a synods” (τοὺς τῶν ἐπισκόπων δὲ ὅρους τοὺς ἐν συνόδοις ἀποφανθέντας ἐπεσφραγίζετο). *Life of Constantine* 4.27.2. The fact of Constantine’s assent to imperial conciliar decisions is assured, but the precise legal status of those decisions is unclear. See also *Life of Constantine* 3.23, and analysis by Davide Dainese, who concludes “L’unico caso, infatti, in cui Costantino sembra attribuire valore legale a decisioni ecclesiali avviene secondo le modalità prescritte nei capitoli del CTh che disciplinano la competenza dei giudici in materia edilizia.” Dainese, “Costantino a Nicea,” 414. Text *Eusebius Werke* 1.1.

¹⁰¹ *ACO* 2.3.1.53. Emphasis mine.

constitutions of 426 defining the legal force of the term *lex generalis*, Christian scholastic sources that invoke the term use it in its technical, juristic sense. That is to say, Christian scholars used the concept invariably in line with the strictures set out in a *novella* of Theodosius II composed in 447, which requires

that if any law should afterwards be established by one of us, it should obtain proper force also in the realm of the other Emperor only if it was decreed as a general constitution (*quod generatim constitutum esset*) and was accompanied by the divine imperial documents and had been issued to the other Emperor.¹⁰²

This change in Christian use of the concept, as well, demonstrates the extraordinary extent to which the court documents of Theodosius II, both in the form of legal codifications and conciliar pronouncements, were of a piece—they issued from the same court, with the same underlying terminology and epistemology. And each corpus’ deployment of that terminology responds to legislation regarding what, precisely, can and must be designated a “general law.”

I argue that the proposed creation of a “guide to life” on the basis of a the framework of legal generality proves the extent to which Christian epistemic notions had suffused the legal scholastic frame by the time of the *Theodosian Code*. This conclusion is dramatically out of step with contemporary scholarly discussions of the *Code*’s conceptual framework. For instance Clifford Ando has stressed the continuity of concepts

¹⁰² *Nov. Theod. 2.0*. This *novella* in turn deals with the problem of designating *both* edictal and general law as universally binding, as is proposed in *CTh* 1.1.5, by restricting the terminology when the distinction does not involve a difference.

like *ius publicum* as described by Ulpian into post-classical Roman law. In cases where common terminology is redeployed to new ends (“Papinian cannot, it seems to me, have meant the same thing by a ‘sacred building’ as Justinian did”),¹⁰³ he wonders :

How are we to assess and describe changes in the understanding of government, law and religion, or their respective and mutually-implicated roles in the constitution of society, if the terms devised by Romans in the classical period to articulate these fundamental truths passed without remark into the linguistic toolboxes of Christian lawyers in late antiquity?¹⁰⁴

Ando’s concern is necessary, and is characteristically well-articulated. It is true that change is not easily visible in places where such an insular domain of scholastic production relies on terms of legal art that were conceived long before Christians became a ruling elite. One fruitful avenue of analysis, however, is to identify newly minted terms of legal art and try to understand their own genealogies, as I have done above.¹⁰⁵ Such analysis demonstrates clearly that, in the Theodosian Age, government, law, and religion are indeed “mutually implicated” because the clerical elite involved are, often, one and

¹⁰³ Ando, “Religion and *Ius Publicum*,” 131.

¹⁰⁴ *ibid.*

¹⁰⁵ Ando's chapter discusses a genealogy of the concept of *ius naturale* only with reference to juristic sources. In order to understand Justinian's use of the term as the language of the sixth century, however, one needs to deal with the significant body of scholarship among Jews and Christians that mutually informed the lawgiver, and which Justinian explicitly invokes in the texts under analysis.

the same.¹⁰⁶ The rest of my dissertation seeks to bear out this fact, and its thoroughgoing implications.

The reconceptualization of civil law as the sort of discourse that could constitute a “guide to life” demonstrates the extraordinary extent to which the law itself had been reimagined. It is not that law, in the Theodosian age, was no longer considered to be a foundation of society; rather the firm foundation of law rested on new ground fertilized by a century of imperial Christian scholasticism. Whether this translation of law was the work of specific jurists or whether it drifted on a wider cultural current is an interesting issue to ponder, but is ultimately immaterial to the question posed here. The government lawyers drafting constitutions like those that called for the creation of the *Theodosian Code* already assumed, in their language and in their call for a universal statement of orthodoxy like the proposed “guide to life,” a reimagined foundation of society. Their work was, then, in large part reactive, and serves as a particularly potent case study in the diffusion of Christian epistemic and conceptual frameworks in to the

¹⁰⁶I would thus dispute Ando’s conclusion: “This is not to say, of course, that legislation on particular issues did not come to reflect some new set of ‘Christian priorities’; nor do I claim that it was impossible so to reimagine the foundations of society. It is merely that government lawyers did not do so, and that fact itself had important social-historical consequences.” “Religion and *Ius Publicum*,” 133. An alternative conclusion results from Heggelbacher’s careful work on the Christian notion of *lex naturalis* in post-classical law. Heggelbacher, *Vom römischen zum Christlichen Recht*, 8–43.

domain of post-classical law.

The change that I describe here, then, is in essence the mirror image of the change that Aldo Schiavone locates in the work of Scaevola, and other late republican jurists, and the “epistemic revolution in Roman thought (rivoluzione epistemica del pensiero romano)” that they instigated. As he argues,

Abstract concepts conceived through formal juristic investigation would not have been considered, from [Scaevola] forward, solely as categories of thought. They were seen, in an increasingly circumscribed way, also as modes of being, as real entities with a life of their own, and with an inescapable objectivity which legal thought was limited solely to reflect...¹⁰⁷

Schiavone showed how legal categories came to define social realities. I have argued that in Late Antiquity, social realities came to inflect legal categories. If I have not convinced you of this point yet, I hope that I can by the end of this dissertation.

The *Theodosian Code* is a quintessentially Theodosian document.¹⁰⁸ It issued from a court in which contemporary scholarly distinctions between discourses of “religion” and “law” fail. Not only the structure, but the very fact of the *Theodosian*

¹⁰⁷ “I concetti astratti costruiti attraverso lo sguardo formalizzante dei giuristi non sarebbero stati considerati, da Mucio in poi, soltanto come categorie del pensiero. Essi furono visti, in modo sempre più definito, anche come figure dell’essere, come enti reali dotati di una vita propria e di un’ineludibile oggettività, che la conoscenza giuridica si limitava solo a rispecchiare...” Schiavone, *Ius*.

¹⁰⁸ Kerr, “A Theory of Law,” 111.

Code's compilation as a universalizing statement of jurisprudential orthodoxy conceived on the concept of "general law" and in view of a "*guide to life*" speaks to the extent to which peculiarly Christian structures of knowledge had suffused the imperial administration by the mid-420s. Thus not only book 16 on "religious matters," but the entire intellectual ideal behind the production of a *Code* points to the fact that "the Codex Theodosianus was intended to showcase a new, imperial and Theodosian, ordering of knowledge concerning matters human and divine."¹⁰⁹ Lines of transmission, however, do not invariably lead from Christian discourses to influence the presentation and theorization of law. The *acta* of the Council of Chalcedon show that theological disputation and scholarship of the mid-fifth century was conceived and promulgated in a manner that responded to legal definitions recorded in texts like *CI* 1.14.2,3 and *Nov. Theod.* 2.0. Each tradition of scholarship has its own history, but it is an error to allow divergent scholastic lineages among theologians and jurists to overshadow the profound convergence of the two precisely in the Theodosian age.

Conclusion

Scholarship in the Theodosian empire proceeds from and undergirds a single episteme—a structure of knowledge inflected by Christian ways of knowing and embedded across the landscape of elite literary production. And yet it is only the domain of Roman law that modern scholars are reticent to read within a Christianized epistemic environment.

¹⁰⁹ Humfress, "Ordering Divine Knowledge in Late Roman Legal Discourse," 161.

But, as I have argued, interconnections between law and theology, between court and church, are visible in every facet and corner of the great Theodosian Age scholastic productions. One glance at the pioneering work of Raban von Haehling detailing the “Religious Persuasion of High Office Holders in the Roman Empire” shows that the accession of Theodosius I was the turning point, at which Nicene Christians came to power as a ruling elite for the first time.¹¹⁰ Even given the rightful criticisms of Barnes¹¹¹ and Salzman¹¹² regarding specifics of von Haehling’s prosopography, the trend is clear: Christians, and specifically Nicene Christians, came to majority power only in the late fourth century. (Figure 2.3)

¹¹⁰ Von Haehling, *Die Religionszugehörigkeit der hohen Amtsträger des Römischen Reiches*.

¹¹¹ Barnes, “Statistics and the Conversion of the Roman Aristocracy.”

¹¹² Salzman, “How the West was Won: the Christianization of the Roman Aristocracy in the West in the Years after Constantine.”

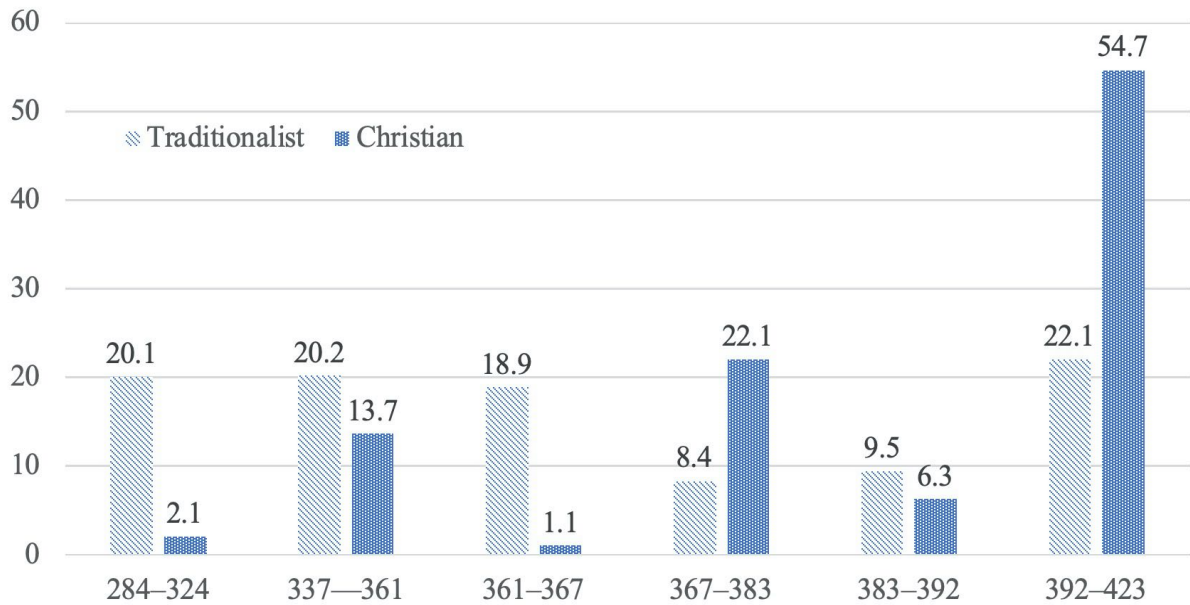


Figure 2.3. Religious identification of western senate high office holders at time of highest office.

Nicene Christians, armed with an epistemology whose development is treated in chapter four, came to power and brought their peculiar structure of knowledge with them. One's epistemology may be context specific to a certain extent, but in broad strokes it remains nevertheless intact as individuals code switch between domains of knowledge and modes of interaction.¹¹³ And, as Christians came to power and proliferated through the ranks of the elite classes, we see a simultaneous shift in the way that arguments are made—in the epistemology—within domains of knowledge production populated by

¹¹³ Ramsay MacMullen demonstrated that by the late fourth century, a significant convergence in religious vocabulary, as well as religious ideology, had taken place between senatorial Christians like Ambrose and senatorial Traditionalists like Symmachus. MacMullen, *Christianizing the Roman Empire*, 77–8.

Christians, but that do no obvious theological work.

Consider Vegetius: a military historian who dedicated his handbook of military science “to the Emperor Theodosius,” composing his work of encyclopedic learning some time in the late fourth or early fifth century.¹¹⁴ Scholars argue that Vegetius was a Christian on scant grounds: in his *Epitome of Military Science* 2.5 he describes soldiers swearing by “God, Christ, and the Holy Spirit,” in 4.35 the author appears to refer to the date of Easter, and in 4.40 he mentions “God the Creator.” Yet his entire work is interpreted as arising out of a Christian empire and a Christian scholastic environment by contemporary scholars on these bases alone.¹¹⁵

There is almost no doubt that Vegetius was a Christian. But this reasonable hermeneutic presumption is made on the basis of nearly no textual evidence—certainly on the basis of less evidence than the overtly Christian framing and language of the *Theodosian Code*. What should allow scholars to presume that the domain of post-classical law impervious to Christian structures of knowledge in a way that military science is not? In this case, institutional boundaries of the modern academy which parcel out the study of Roman law from contemporaneous scholarly discourses are surely to blame in the main. But the history of scholarship on Roman law, along with the history of scholarship on ancient Christian theology, has denied each a full contextualization among

¹¹⁴ *Ad Theodosium imperatorem*. The inscription is ambiguous as to which “Emperor Theodosius” the work is dedicated. On dating see Otto Seeck, “Die Zeit des

Vegetius;” and Walter Goffart, “The Date and Purpose of Vegetius’ ‘De re militari.’”

¹¹⁵ See, for instance, Milner, *Vegetius: Epitome of Military Science*, xxxi–xxxvii.

other elite, technical discourses of their day. Each has been afforded its own manner of reading and hermeneutical approaches that privilege an account of disciplinary history that is almost wholly self-referential. This dissertation attempts to demonstrate the promise of allowing texts like Vegetius' to speak to and about the epistemic and intellectual world of its scholastic contemporaries like the *Theodosian Code* and the golden age of Christian "patristic" literature.

Among the earliest manuscripts of Vegetius's *Epitome of Military Science* is Vatican Reg. Lat. 2077, copied between 585 and 593. This substantial codex does not compile merely works of Vegetius, who is known also for a significant work on animal husbandry, nor does it comprise a collection of works of "secular" learning. Rather, Vegetius's tome of military science is bound together with some of the most popular works of "Christian" scholarship from fourth and fifth centuries, including Gennadius of Massilia's supplement to Jerome's *On Eminent Men* and Eusebius of Caesarea's *Chronicon*.¹¹⁶ This early codex comprising some of the "greatest hits" of Theodosian and patristic scholarship is among the clearest pieces of evidence that products of fourth and fifth century scholarship like Jerome's *On Eminent Men* and Vegetius's *Epitome of Military Science* should be read as cognate literatures. After all, they were read as cognate literatures by their earliest recipients.

This manuscript, as well, presents a framing invocation at its beginning and end,

¹¹⁶The abiding scholastic provenance of this manuscript is further demonstrated by the undertext of this palimpsest, which witnesses one of the earliest copies of Cicero's *In Verrem*.

visible today only under ultraviolet light. On the first sheet of the manuscript, in the upper right margin before the first text's incipit, the initial scribe wrote a small note that reads "Christ give help!" (*Christe adiuba*).¹¹⁷ The same scribe concluded the codex with another invocation trailing the final piece of scholarship: "Christ help the one desiring to know you!" (*Christe adiuba desiderantem te nosse*)¹¹⁸. This scribe responsible for collecting these works of Theodosian age scholarship together into a single codex began and concluded the work with an invocation to the deity, and an invitation to the reader: read these texts with the help of and desire to know Christ. My suggestion—that texts of Theodosian age scholarship are rightly read only within a Christian epistemic context—is not a secondary heuristic. This manuscript of Vegetius quite literally has a Christian frame.

I have argued that modern scholars are well served to read ancient sources within

¹¹⁷ I have translated the regularized spelling of *adiuva*. *Adiuba* is nonsensical, and late ancient scribes regularly mistake V for B—especially in scribal notes. See, for instance, Codex Puteans (BnF Lat. 5730, TM 66692) in which the early-fifth century (contemporary) corrector repeatedly uses *recognobi* for *recognovi*.

¹¹⁸ The note is briefly described by Troncarelli, "Osservazioni sul Reginense latino 2077," 94. The phrase is found regularly in late ancient marginalia, for instance in the seventh century overtext of Vat. Pal. Lat. 2077, which has a chart of heresies the bottom left of which reads *XPE adiuba desiderante(m) te nosse*, with a superlinear stroke over XPE (*Christe*) indicating the *nomen sacrum* and the final M on *desiderantem* marked out with a superlinear stroke.

their broader intellectual context. Further, I argue that even in antiquity, texts like the *Theodosian Code*, the military handbooks of Vegetius, and other works of elite scholarship were already understood to proceed from and speak to a singular, Christianized epistemology.

In chapter five I turn to “the rise of the code”: authoritative, scholarly distillations of authorized material as found in Christian and juristic sources. The code, however, did not arise in a vacuum. Both exogenous and endogenous factors created the environment in which codification seemed necessary, especially among Christian scholars dealing with the aftermath of the so-called “Arian controversy.” A change in citational practices forms the backdrop for the rise of the code during the time of Athanasius and beyond into the Theodosian age, when “patristic commentary” began to displace more traditional scriptural citation as the central avenue of scholarly argumentation. But there is a story of development and difference, of continuity and rupture in citational practices to be told in the centuries leading up to the fourth, when Christians first began to think systematically and dogmatically about the place of authoritative text in theological disputation. Followers of Jesus did not always agree—in particular or even in broad strokes—regarding the proper method by which one might make a true theological statement. I turn to this contentious history of Christian proof in chapter three.

Chapter 3—A History of Christian Citational Practices

Valerius Maximus, purveyor of anecdotes and sayings from the Roman Republic through his own day during the reign of Tiberius, recorded a curious incident in the history of Roman municipal planning. In the late third century BCE, a certain Marcellus was serving his fifth term as consul and decided to consecrate a single new temple to the gods Honor and Virtue. Noticing an epistemic error underlying Marcellus' intended building project, the college of priests balked. The priests responded "should some sign occur there [in the proposed temple], it would be impossible to distinguish to which of the two an expiatory ceremony should be performed."¹ If a single temple were dedicated to the two divinities, the priests argued, there would be no way to discover whether, say, a lightning bolt striking the temple precinct was a portent from Honor, or whether it was from Virtue.² Marcellus's error was made in good faith: he intended only to offer thanks to the gods with a gleaming new temple built in their honor. His error arose because he

¹ *Si quid prodigii in ea accidisset, ne dinosceretur utri rem divinam fieri oporteret.*

Valerius Maximus, *Memorable Doings and Sayings* 1.1.8. Translations adapted from LCL 492.

² This concern appears limited to Romans, and perhaps to temples of gods served by the priestly colleges of Rome; we hear no such complaint concerning Pisistratus the Younger's Altar of the Twelve Gods at the Athenian Agora. It is not even clear to which twelve gods the 6th century BCE altar was erected, though presumably ancient worshippers had a keener understanding than do modern scholars.

vowed a temple without having the precise scholarly knowledge which was the purview of the priestly college. In this instance we see a “Roman religion...founded upon an empiricist epistemology,” according to Clifford Ando.³ The content of religious knowledge—in this case which god has provided a sign for interpretation—was expected to be ascertained by way of rigorous spatial analysis. In this case, an epistemic expectation translated into intentional interventions in the shape of the city’s institutions so that divine communication could be exactly identified.

According to Valerius Maximus, the content of cultic knowledge is just one determining factor on the structuring of the built environment. Another factor, at least as determinative as the need to respond properly to portents, is knowledge of the epistemic basis upon which such interpretations are made. Marcellus’s fundamental misunderstanding when proposing an intervention into the architectural environment of Rome was not that he failed to acknowledge that signs from the gods require a response; rather, he failed to understand the way that pontiffs go about the business of determining the proper response to any given sign. Marcellus knew what could be true—that there could be a sign and that it would require a response—but he did not know how such scholarly knowledge was produced—the way in which a priest would make an argument about which god to propitiate. In this case it is the epistemic basis of scholarly knowledge that structured the physical environment, with scholars trained in the science of “portents (*prodigii*)” acting as a check, on the basis of their specialized, methodological knowledge.

³ Ando, *The Matter of the Gods*, 13.

This chapter explores the epistemic basis for specialized knowledge as claimed by Christian scholars from the Antonine age through roughly the end of the Severan dynasty. My dissertation as a whole is concerned with the ways in which epistemic shifts motivate changes in knowledge production in Roman scholarship of the fourth and fifth centuries. In the story of Marcellus's temple we see that already, 600 years prior, epistemic concerns fundamentally impacted not only the obscure scholarly literature of the college of priests, but the very makeup of the incipient Roman metropolis. In order to contextualize the seismic epistemic shifts caused by the rise of Christianity in the late fourth century, this chapter surveys the tradition of citation within Christian scholarship in the centuries before Christians came to be a ruling elite. I hope to demonstrate that before the fourth century, these traditions of specialized knowledge evince little overlap in citational practices: in how they think an argument can be proved. The relative independence of earlier Christian ways of knowing contrasts starkly with the substantial epistemic convergence evident among fourth century Christians adjudicating the Nicene controversy, and the peculiarly Christian epistemic frame underlying the great scholastic productions of the Theodosian Age. Subsequent chapters will show relative uniformity among Christian scholars concerning the proper way to make a theological argument; this chapter focuses on diversity. I argue that, in the period before the "Arian controversy" of the early fourth century, there was little overlap among Christians regarding what an authoritative argument looked like.

This chapter will not present a totalizing, teleological, or internally coherent account of Christian knowledge formation before the fourth century. To tell a coherent story that assimilated all of these writers to a trajectory, or even onto a timeline, would be

an anachronism and a historical failure. Such an attempt would presuppose the backwards gaze of a fourth century orthodoxy like Jerome's, whose *On Illustrious Men* assimilates a bewildering variety of theological methods into a coherent tradition through the dual operations of assimilation and exclusion. Jerome assimilates the work of scholars like Tertullian and Irenaeus, for instance, who approached theological argumentation with fundamentally opposite methods, as I argue below. By placing these two early Christian thinkers together in apparent harmony, their methodological incompatibility elides into a teleological story of the development of Nicene Orthodoxy. Tertullian and Irenaeus might well have agreed with the pronouncements of the Council of Nicaea, had they lived long enough to see them. However, I argue below that they would have adjudicated the question of the relationship between the Christian Father and Son in a fundamentally divergent manner. As told by Jerome, the development of Orthodoxy is a story weaving together the lives of great men who held to theological precepts with which the Palestinian bishop agreed. These men, however, often arrived at "proto-Orthodox" positions through radically different methods. Different epistemologies, in other words, often undergirded complimentary theological precepts.

In addition to assimilating antithetical epistemic frameworks, Jerome excluded traditions of Christian theological speculation that did not reach his preferred dogmatic conclusions. For instance, Marcion's work was an important and generative part of Christian theological history, though he appears in Jerome's catalogue only as a villain. The *Gospel of Truth*, too, is part of Christian theological history, whether Jerome considers it to be part of the patrimony or not. Below I detail its radically anti-textual approach to truth as a way to focalize the textual fetishism of many late ancient Christian

traditions.

Epistemic and preceptual knowledge in antiquity

My analysis focuses on the epistemic method of ancient texts rather than trying to expound precepts which these texts hold to be true. Epistemic methodology—how one goes about the business of producing valid knowledge—can be displayed in any number of ways. One’s epistemology may be expressed in absolute terms through an excursus on method, as I performed in the first chapter of this dissertation. Alternatively, epistemology can be read from the structure of scholarly argumentation, investigating the underlying precepts of scholastic method by watching the argument “in action,” as it were.

For the purposes of my discussion, “epistemic knowledge” refers to truth claims that are methodological or procedural: it defines the way that truth can be produced. “Preceptual knowledge,” on the other hand, refers to the results of epistemic knowledge: substantive knowledge, or the-truths-themselves.⁴ I use both types of evidence here, but

⁴ The language of “preceptual knowledge” taken from Seneca and repeated by Clement of Alexandria, as I show below. The term is precise at the expense of elegance, and while “conjectural” is the more traditional translation of the Greek δοξαστικός, it seems to me that translating the Greek and Latin differently in English would obscure more than it enlightens. For his part, Seneca too insisted on using *praeceptio* to refer to substantive knowledge even though it was strange in Latin. To the charge that this term is useful but unwieldy, he responded “nothing stops me from using this term

the distinction between “epistemic” and “preceptual knowledge” is not my own, nor an invention of modernity; we share the distinction with distinguished philosophical minds of antiquity. Plato posited a formal opposition between knowledge that is “preceptual” (δοξαστικός) and knowledge that is “epistemic” (ἐπιστήμων), and as I demonstrate below, Clement of Alexandria repeated the distinction.⁵ A distinction between knowledge of precepts and knowledge of philosophical method continues in Latin with the work of Seneca, the first century Stoic philosopher and advisor to the emperor Nero. He urged Lucilius, the procurator of Sicily, not to forsake epistemic knowledge in order to focus entirely on precepts, as some mistakenly commend.

Some people have deemed only one part of philosophy legitimate—the part that, instead of instructing human beings in general, gives specific precepts for each social role, such as advising a husband on how he should behave to his wife, a father on how to raise his children, or a master on how to regulate his slaves. They have rejected the other parts for straying beyond our actual needs. As if anyone could give advice about a part of life before having grasped life in its entirety!⁶

(*nihil enim nos hoc verbo uti prohibet*)!” I’ve taken his lead. Seneca, *Epistles* 95.65.

Text Reynolds.

⁵ Plato, *Theaetetus* 207c. Text LCL 123.

⁶ *Eam partem philosophiae quae dat propria cuique personae praecepta nec in universum componit hominem sed marito suadet quomodo se gerat adversus uxorem, patri quomodo educet liberos, domino quomodo servos regat, quidam solam receperunt, ceteras quasi extra utilitatem nostram vagantis reliquerunt, tamquam quis posset de*

Seneca here expresses a typical tenet of Stoic thought in antiquity: proper knowledge is foundationally coherent. He claims that the three classical divisions of Stoic philosophy—physics, ethics, and logic—are so interconnected that one might reasonably debate which topic to teach first. The Stoic system cannot be disaggregated and cashed out in terms of *either* preceptual *or* epistemic tenets.⁷ The Stoic teacher Aristo took it one step further, Seneca continues, arguing that preceptual knowledge was utterly useless, “being nothing but advice from old women.”

The Stoic Aristo, on the contrary, judges this part [precepts] to be of little weight, and incapable of sinking right into the mind, being nothing but advice from old women. In his view, the greatest help comes from the actual doctrines of philosophy and the structure of the ultimate good. “Once someone has thoroughly understood and learned the structure of the ultimate good, he can prescribe to himself what should be done in each situation.”⁸

The rest of Seneca’s substantial letter on philosophical method takes up Aristo’s points

parte suadere nisi qui summam prius totius vitae complexus esset. Seneca, Epistles

94.1. Translations of Seneca are adapted from Graver and Long.

⁷ See Lehoux, *What Did the Romans Know?*, 58–9.

⁸ *Ariston Stoicus e contrario hanc partem levem existimat et quae non descendat in pectus usque, anilia habentem praecepta. plurimum ait proficere ipsa decreta philosophiae constitutionemque summi boni. “Quam qui bene intellexit ac didicit quid in quaque re faciendum sit sibi ipse praecipit.” Seneca, Epistles 94.2. The last sentence is very likely a quotation from Aristo. I have punctuated accordingly.*

one by one, and the philosopher returns the topic of epistemic and preceptual knowledge in his next letter to Lucilius.

But let us connect them [precepts and doctrines]. Branches without roots are useless, and the roots themselves are assisted by what they have produced. No one can fail to know how useful our hands are; their service is obvious, but the doctrines of philosophy are hidden. Just as the more sacred elements of a religion are known only to initiates, so in philosophy the inmost parts (*arcana*) are revealed only to those who have been fully admitted and received into its mysteries. But precepts and the like (*praecepta et alia*) are also shared with outsiders.⁹

Epistemic and preceptual knowledge, in other words, are separable in concept, but not in practice. Clement of Alexandria likewise espouses an intellectually and morally relevant distinction between preceptual and epistemic knowledge. It is likely that Clement came to this position through the direct influence of Stoic tradition—perhaps from Seneca

⁹*Sed utrumque iungamus; namque et sine radice inutiles rami sunt et ipsae radices iis quae genuere adiuvantur. Quantum utilitatis manus habeant nescire nulli licet, aperte iuvant: cor illud, quo manus vivunt, ex quo impetum sumunt, quo moventur, latet. Idem dicere de praeceptis possum: aperta sunt, decreta vero sapientiae in abdito. Sicut sanctiora sacrorum tantum initiati sciunt, ita in philosophia arcana illa admissis receptisque in sacra ostenduntur; at praecepta et alia eiusmodi profanis quoque nota sunt. Seneca, Epistles 95.64.*

himself, or perhaps through the mediation of Musonius Rufus.¹⁰ In any event, the point is not unique to Stoic thought. Clement writes forcefully in his *Patchworks* that scripture itself has a will which imposes itself on a reader, and bids her toward “the highest form of study, the supreme revelation, the foundational episteme that becomes irrefutable through reason.”¹¹

And so, while the knowledge of those who think themselves wise (Greek philosophers or foreign heretics) is, in words of the Apostle, “a knowledge which puffs up,”¹² there is nevertheless a trustworthy form of knowledge (πιστὴ δὲ ἡ γνῶσις ἥτις); one might call it an epistemic demonstration (ἐπιστημονικὴ ἀπόδειξις) of the traditions of true philosophy. We might say that it is a rational approach to providing, on the basis of accepted truths, an account in which we can put our faith in relation to matters in dispute. Credibility is of two kinds; one epistemic, the other preceptual (τῆς μὲν ἐπιστημονικῆς, τῆς δὲ δοξαστικῆς). Nothing prevents us from calling demonstration twofold; the one epistemic and

¹⁰ “The influence of Stoic ethics [in Clement’s writings] can be seen, although it remains very difficult to name the specific works upon which he depends. Many passages are almost identical with some in the Stoic thinker C. Musonius Rufus. However, whatever is borrowed in this way is combined with Christian ideas to such a degree that a Christian theory of life emerges.” Quasten, *Patrology*, 2.12.

¹¹ ...θεωρία μεγίστη, ἡ ἐποπτική, ἡ τῷ ὄντι ἐπιστήμη, ἡ ἀμετάπτωτος λόγῳ γινομένη.
Clement of Alexandria, *Stromata* 47.4. Text GCS 52.

¹² A quotation from Paul, *1 Corinthians* 8:1.

the other preceptual, since we actually use two separate terms—both “knowledge” and “foreknowledge” (καὶ ἡ γνῶσις καὶ ἡ πρόγνωσις)—one enjoying its own nature in its full and precise measure, the other incompletely. Is there any reason to doubt that the demonstration we provide alone leads to truth, when it is provided out of divine Scripture, sacred writings, and the wisdom the Apostle describes as “God-taught?”¹³

Clement here describes the difference between epistemic and preceptual knowledge, which are conceptually distinct but nevertheless combine to undergird the credibility of theological arguments. The language is playful, and exploits the lexical flexibility in which the root πιστός can describe both the “faith” of a person and the credibility of his or her argument. Clement is nevertheless clear that *epistemic* knowledge guides the

¹³ Ἀλλ’ ἡ μὲν τῶν οἰησισόφων, εἴτε αἰρέσεις εἶεν βάρβαροι εἴτε οἱ παρ’ Ἑλληνισι φιλόσοφοι, ‘γνῶσις φυσιοῦ’ κατὰ τὸν ἀπόστολον, πιστὴ δὲ ἡ γνῶσις ἥτις ἂν εἴη ἐπιστημονικὴ ἀπόδειξις τῶν κατὰ τὴν ἀληθῆ φιλοσοφίαν παραδιδομένων. φήσαιμεν δ’ ἂν αὐτὴν λόγον εἶναι τοῖς ἀμφισβητούμενοις ἐκ τῶν ὁμολογουμένων ἐκπορίζοντα τὴν πίστιν. πίστεως δ’ οὔσης διττῆς, τῆς μὲν ἐπιστημονικῆς, τῆς δὲ δοξαστικῆς, οὐδὲν κωλύει ἀπόδειξιν ὀνομάζειν διττὴν, τὴν μὲν ἐπιστημονικὴν, τὴν δὲ δοξαστικὴν, ἐπεὶ καὶ ἡ γνῶσις καὶ ἡ πρόγνωσις διττὴ λέγεται, ἡ μὲν ἀπηκριβωμένην ἔχουσα τὴν ἐαυτῆς φύσιν, ἡ δὲ ἐλλιπῆ. καὶ μὴ τι ἡ παρ’ ἡμῖν ἀπόδειξις μόνη ἂν εἴη ἀληθῆς, ἅτε ἐκ θείων χορηγουμένη γραφῶν, τῶν ἱερῶν γραμμάτων καὶ τῆς ‘θεοδιδάκτου’ σοφίας κατὰ τὸν ἀπόστολον. Clement of Alexandria, *Stromateis* 2.48.1–3. The final quotation is from Paul, *1 Thessalonians* 4:9. Translations are adapted from Ferguson.

production of truth, and is ultimately foundational.

Preceptual demonstration (ἡ δὲ δοξαστική ἀπόδειξις) is a human matter; it is the product of rhetorical argument or even dialectical syllogisms. The higher demonstration, which we have suggested is epistemic (ἣν ἡνιξάμεθα ἐπιστημονικήν), instills faith/credibility (πίστιν ἐντίθησι) by presenting the scriptures and opening them up to the souls who are eager to learn, and this could hardly be other than knowledge. In fact, if the arguments brought to a problem are accepted as true, on the grounds that they are derived from God and prophecy, then I imagine that it is clear that the conclusion derived from them will be true in consequence.¹⁴

We are lucky to have extant from antiquity not only traditions of preceptual teaching, but also dedicated, philosophical discussions of epistemic foundations. Clement is probably the most eloquent writer and sophisticated theorist that I will discuss in this dissertation. But his concerns about the production of knowledge, and the conceptual categories that he uses as tools to instruct and to edify, are not his alone. His question, “how should one

¹⁴ ἡ δὲ δοξαστική ἀπόδειξις ἀνθρωπική τέ ἐστι καὶ πρὸς τῶν ῥητορικῶν γινομένη ἐπιχειρημάτων ἢ καὶ διαλεκτικῶν συλλογισμῶν. ἡ γὰρ ἀνωτάτω ἀπόδειξις, ἣν ἡνιξάμεθα ἐπιστημονικήν, πίστιν ἐντίθησι διὰ τῆς τῶν γραφῶν παραθέσεώς τε καὶ διοίξεως ταῖς τῶν μανθάνειν ὀρεγομένων ψυχαῖς, ἥτις ἂν εἴη γνῶσις. εἰ γὰρ τὰ παραλαμβανόμενα πρὸς τὸ ζητούμενον ἀληθῆ λαμβάνεται, ὥς ἂν θεῖα ὄντα καὶ προφητικά, δῆλόν που ὥς καὶ τὸ συμπέρασμα τὸ ἐπιφερόμενον αὐτοῖς ἀκολούθως ἀληθὲς ἐπενεχθήσεται. Clement of Alexandria, *Stromateis* 2.49.2–4.

go about the business of finding truth,” is shared by Ignatius, by the author of the *Gospel of Truth*, by Justin, Irenaeus, Tertullian, Constantine, Athanasius, Hilary, and others.

There are accordances between Christian scholastic thinkers of the second through fourth century, but there is no story to be told of unity or progression. These questions were live, foundational, and boisterously disputed.

Christian Epistemologies

Before the fourth century, Christian scholars took a bewilderingly broad range of approaches to authorizing their claims. Of course, diversity is to be expected; the ground rules of orthodox theological discourse were very much in contention during the second and third centuries, and the locus of Nicene Christian authority under Theodosius—creeds—arose in this capacity relatively late in the tradition. The spectrum of citational practices was as diverse as the theological spectrum of early Christianity; for hundreds of years followers of Jesus were as divided over the content of theological propositions (“preceptual knowledge”) as they were over the manner in which a theological proposition could possibly be justified (“epistemic knowledge”). A spectrum is visible from Marcion, perhaps the first Christian scholar to define a New Testament canon as intertextually coherent and theologically binding, to *The Gospel of Truth*, which offers a vision of Christianity wholly removed from exegetical concerns.¹⁵ Between these positions we find Ignatius of Antioch, whose interest in Septuagint material is significant,

¹⁵ On Marcion see Lieu, “Marcion’s Gospel and the New Testament,” 333. *The Gospel of Truth* is discussed in more detail below.

but who explicitly rejects the authority of purely textual arguments in favor of inspired speech. Some early Christians, like Irenaeus of Lyon and the author of *First Clement*, considered Septuagintal texts to be central *loci* of authority. Others, like Tertullian, rejected the idea that truth could be read out of a text whatsoever, even if the text in question was undeniably scripture. Even among Jesus followers interested in scriptural interpretation as a method of accessing truth we find significant disputes over what “scripture” is and how it might be deployed.

The idea that scriptural interpretation can produce theological truth is not obvious, and it should not be taken for granted that “Christianity” in the second and third centuries was at any point coterminous with reliance on textualized forms of authority.¹⁶ Christians were not always “people of the book,” and even those in the second and third centuries who were interested in textual interpretation vary drastically in what they think scripture is, and for what it is properly used. Thus, studies of Christian citational practice should not be constrained to citations of biblical material—doing so would occlude a vast swath of early Christian material whose producers found little reason to base their arguments there at all. The proto-Orthodox movement of the third and fourth centuries (often in response to the work of Irenaeus) honed in on scriptural interpretation as centrally authoritative, but even that status did not last.¹⁷ The late fourth century witnessed a move

¹⁶ Jason BeDuhn has made a compelling case to localize this particular innovation to Marcionite Christians. BeDuhn, “Marcion’s Gospel and the New Testament,” 327.

¹⁷ A note on my use of the term “proto-Orthodox:” scholars of the fourth and fifth century, who considered themselves to be “Orthodox” and called themselves as such,

to what Mark Vessey has called “patristic commentary” (*retractatio patrum*), in which scripture no longer held center stage. Rather, scriptural texts were sublimated to creeds and statements of doctrine that had been distilled from scripture, but that were worded by councils and the great doctors of the church—Athanasius, Basil, Gregory, Jerome, Cyril.¹⁸

There is a sense in which the “Arian controversy” was the last scriptural controversy, in which New Testament texts and their proper interpretation were the crux of the issue. Chapter four turns to the Arian controversy itself, where I will argue that the dispute played a significant role in the promotion of creedal statements over biblical texts when asking questions of doctrinal orthodoxy. I intend to show that no trajectory or story of development is visible in the productions of Christian scholars from in the second, third, and fourth centuries. Rather, each waypoint offers a glimpse at distinct book

did so in light of a literary-scholastic tradition that self-consciously included the likes of Irenaeus and Tertullian, and that was constructed precisely in opposition to other scholastic voices like those of Marcion and Valentinus. My invocation of the term “proto-Orthodox,” is not intended as a statement of ontology or a category emic to ancient Christianity. Rather, it is meant to provide a way of distinguishing the tradition claimed by my fourth and fifth century sources from the tradition that they explicitly disclaim. I might well use the term “the-tradition-of-scholarship-claimed-by-late-fourth-century-defenders-of-the-Nicene-creed,” but proto-Orthodox is (moderately) less cumbersome.

¹⁸ Vessey, “The Forging of Orthodoxy.”

cultures and epistemic frames within which early Christians moved and breathed.¹⁹ The next chapter culminates with the definition of “Orthodoxy” in the Theodosian Age as adherence to a tightly policed statement of faith that was intended to distill a proper reading of scripture within a framework of traditional authority, and undergirded by a form of Christian encyclopedism. By the ascension of Theodosius I in 379 CE, the Orthodox movement no longer looked primarily to scripture in order to adjudicate questions of doctrine. Rather, they looked to an authorized, universal statement of truth. I argue that the “code” form that became ubiquitous in the Theodosian age resulted from a Christian scholastic worldview that considered a particular epistemology to be coterminous with Orthodoxy. Chapters three and four trace the development of that epistemology, and the variety that preceded it.²⁰

¹⁹ The conclusion of this analysis will show that such statements as “Christianity from very early on had understood itself to be an ethical philosophy and therefore superior to the cultic religions” are too broad to be sensical. (Julia Dietrich, “Augustine and the Crisis of the 380s in Christian Doctrinal Argumentation,” 551.) There was no singular “Christianity” in antiquity, and even among the tradition of proto-Orthodox Christians epistemic frameworks were decisively various. More precisely, there is no possible satisfying answer to such a question as Dietrich asks: “What form of argumentation can serve both the philosophical and inclusive commitments of Christianity?” *ibid.*, 552.

²⁰ Examples were chosen not in view of exhaustive coverage, but in order to contextualize the citational history of the Orthodox movement of the fourth and fifth centuries, both

Ignatius

Ignatius was bishop to a community of Jesus followers in Antioch around the turn of the second century, and he knew that he was going to die.²¹ A collection of his letters survive in three recensions of varying lengths, portraying the bishop making one final publicity tour through Asia Minor on his way to execution in Rome: stopping to visit with communities along the way and dispensing advice as an official representative of Jesus, inspired by the Holy Spirit.

Of chief importance for Ignatius was that parishioners obey their (single) bishop and the hierarchical structure of elders underneath him in the same way that they would follow apostles, and, in his words, in the same way that they would accede to the “council of God and the league of apostles.”²² In fact, he contends that “without these [officials of various ranks], a group cannot be called a church!”²³ Ignatius’s concept of authority is

by way of exemplary and influential voices within the tradition and through analysis of the perspectives of writers not authorized by the later Orthodox community. There is much more to say about each and every source that I adduce; I will work to keep my comments brief, however, and focused on the question at hand: “What did each author think was the source of his or her authority?”

²¹ Ignatius, *Romans* 2.2. Text and translations throughout adapted from LCL 24. See also Origen *Homilies in Luke* 6 and Eusebius *Ecclesiastical History* 3.22.36.

²² ...συνέδριον θεοῦ καὶ ὡς σύνδεσμον ἀποστόλων. Ignatius, *Trallians* 3.1.

²³ ...χωρὶς τούτων, ἐκκλησία οὐ καλεῖται. Ignatius, *Trallians* 3.1. Continued from the

institutional and prophetic—he finds dispositive authorization only in inspired speech, and his strong conviction is that divinely inspired speech is found only in a few places: in the words of the prophets as recorded in the Septuagint, in the traditions authentically spoken and handed down by apostles, and in the words of a duly chosen bishop.²⁴ According to Ignatius, the words of a bishop are precisely the voice of God. He scolds the Philadelphians “I cried out among you, speaking in a great voice—the voice of God: ‘Pay attention to the bishop and the presbytery and the deacons!’”²⁵ Ignatius claims that he had no previous knowledge of divisions among the Philadelphian community, but that he writes and speaks under the inspiration of the spirit.

Some suspected that I said these things because I knew in advance that there was a division among you. But the one in whom I am bound is my witness that I knew it from no human source. Rather, the spirit was preaching, saying “Do nothing apart from the bishop!”²⁶

quotation above.

²⁴ For Irenaeus, some bishops are chosen completely *de novo*, by God and without any human intermediary, as was the case for the bishop of Philadelphia. “I have learned that you bishop did not obtain his ministry to the community from himself, nor through humans, nor according to pure vanity, but by the love of God the Father and the Lord Jesus Christ.” Ignatius, *Philadelphians* 1.1.

²⁵ ἐκραύγασα μεταξὺ ὧν, ἐλάλουν μεγάλη φωνῇ, θεοῦ φωνῇ: “τῷ ἐπισκόπῳ προσέχετε καὶ τῷ πρεσβυτερίῳ καὶ διακόνοις.” Ignatius, *Philadelphians* 7.1

²⁶ Ignatius, *Philadelphians* 7.2.

Of particular note here is that Ignatius, who occasionally quotes from the Septuagint²⁷ and has demonstrable knowledge of a corpus of Pauline letters,²⁸ nevertheless witnesses a form of argumentation wholly removed from exegetical concerns. Paul's own letter to the Romans stands transparently in the background of Ignatius' as a stylistic exemplar, and while he shows some interest in prophetic writings in so far as their messages

²⁷ Three quotations are clear in the corpus: *Ephesians* 5.3 quotes *Proverbs* 3:34,

Magnesians 12 quotes *Proverbs* 18:17, and *Trallians* 8.2 quotes *Isaiah* 52:5.

²⁸ Schoedel, *Ignatius of Antioch*, 9. There is a long history of argumentation over whether Ignatius is dependent on written or oral sources for even the scant Jesus traditions that he knows. I am persuaded by Koester that the "Matthean" material in, for instance, *Smyrneans* 1.1, is more likely evidence that Ignatius knows "Matthean" oral traditions than that he has a copy of the *Gospel according to Matthew* as known today. Koester, "Synoptische Überlieferung bei den apostolischen Vätern," 25–28. For an opposing view, see Edouard Massaux, *The Influence of the Gospel of Saint Matthew on Christian Literature before Saint Irenaeus*, 85ff, which proposes hundreds of intertexts and reminiscences of the Gospel according to Matthew in Ignatius's letters, the sum total of which are a testament to Massaux's indefatigable attempt to find a textualized Christianity in Irenaeus which, to my mind, is illusory, even if Koester's absolutist position requires moderation. (ie. "Da die Evangelien aber wohl von vornherein diesen Titel getragen haben dürften, können wir sagen, daß Ign. überhaupt noch keine Evangelienchriften gekannt hat." idem. 25.)

“anticipated the good news,”²⁹ he explicitly rejects the notion that “ancient records” such as these hold any authority of their own.³⁰ “For I have heard some saying, ‘If I do not find it in the ancient records (τὰ ἀρχεῖα), I do not believe in the good news.’”³¹

While the identity and theological method of Ignatius’s opponents remains unclear, they were apparently interested in textual interpretation, and in investigation of “the ancient records.” When Ignatius offers the standard citational formula that he uses elsewhere in the corpus to introduce Septuagintal texts (“as it is written,” ὅτι γέγραπται), his opponents respond cryptically with “that is the question at hand (ὅτι πρόκειται).”³² Ignatius continues “But for me, Jesus Christ is the ancient records (Ἐμοὶ δὲ ἀρχεῖά ἐστιν Ἰησοῦς Χριστός). The inviolable ancient records are his cross and death, and his resurrection, and the trust that comes through him.”³³ Here Ignatius states explicitly what remained implicit in his other letters: while scriptures may be interesting and valuable in

²⁹ Ignatius, *Philadelphians* 5.2.

³⁰ For a review of much of the scholarship on this passage, see Schoedel, “Ignatius and the Archives.”

³¹ ἐὰν μὴ ἐν τοῖς ἀρχείοις εὔρω, ἐν τῷ εὐαγγελίῳ οὐ πιστεύω. Ignatius, *Philadelphians* 8.2. As Koester and others have noted repeatedly, it is extremely unlikely that “ἐν τῷ εὐαγγελίῳ” refers to a textual source. “Synoptische Überlieferung,” 25.

³² See LSJ s.v. πρόκειμαι I.3.

³³ Ἐμοὶ δὲ ἀρχεῖά ἐστιν Ἰησοῦς Χριστός, τὰ ἄθικτα ἀρχεῖα ὁ σταυρὸς αὐτοῦ καὶ ὁ θάνατος καὶ ἡ ἀνάστασις αὐτοῦ καὶ ἡ πίστις ἡ δι’ αὐτοῦ... Ignatius, *Philadelphians* 8.2.

so far as they foreshadow Christ, they are not interesting in and of themselves, and they cannot be mined for reliable, or even relevant, theological truth. For Ignatius, a theological argument can be true only when offered by an inspired interpreter, and proof of inspiration is found atop an institutional structure. The only “archives” that are relevant are non-textual, and access to them is available at the foot of a duly chosen bishop. I turn now to Justin Martyr, whose interest in authoritative text was provisional, at best.

Justin Martyr

Justin Martyr’s approach to authority, and his mode of argumentation, varied with his audience. He believed firmly that a singular truth exists, and that true philosophy would lead a person to God, even though they may take a bewildering variety of to get there.³⁴ Justin’s extant writings are filled with this idea, that the *logos* has suffused the world with knowledge of itself, and ultimately of a singular god.³⁵ Such an epistemic conviction allowed Justin to produce bespoke knowledge: arguments tailored to his audience, and intended to persuade by any means necessary. In contexts where his

³⁴ Justin’s journey is recounted in his *Dialogue with Trypho* 2–7.

³⁵ This notion is even more prominently displayed in the works of Justin’s later interpreters like Clement and Origen. Justin’s concept of the λόγος σπερματικός has become a traditional category of analysis. I will not rehearse here what is already covered well by Ragnar Holte, “Logos Spermatikos;” Mark J. Edwards, “Justin’s Logos and the Word of God,” and Winrich Löhr, “The Theft of the Greeks.”

interlocutor found tradition or text to be valid sources of truth, Justin engaged him on those textual or traditional grounds. But Justin did not believe that truth was so impotent as to require human intervention, and he refused to grant that a tradition or a text could act as anything more than witnesses to a truth that is pre-textual, and unable to be bound by a single mode of discovery or path of attainment. For Justin, textual interpretation is a sometimes useful method, not an aim in and of itself, or a guaranteed avenue of enlightenment.

Justin lays out his approach to truth at the beginning of his two most famous works: the *Dialogue with Trypho the Jew* and the *First Apology*. Two main threads are visible in his prefaces. First, the terminus of true philosophy is knowledge of the deity, though paths to that knowledge vary. Second, Justin holds a negotiated view of traditional authorities, whether traditions of the Jewish prophets or traditions of Platonic philosophy. Such texts point to an original genius and may well inspire awe in their readers, but truth itself is not bound within them.

The most significant meditation on method in Justin Martyr's body of work comes in the opening chapters of his *Dialogue*. He claims to be a philosopher, and that "the work of philosophers is to scrutinize things relating to the deity."³⁶ Justin recounts learning this method from an old man while he was still on his philosophical journey to Christian Platonism. "I don't care...if Plato or Pythagoras or anyone else had such teachings. What I have is the truth; here is how you may learn it (τὸ γὰρ ἀληθὲς οὕτως

³⁶ Phrased as a question in the text: "ἢ οὐ τοῦτο ἔργον ἐστὶ φιλοσοφίας, ἐξετάζειν περὶ τοῦ θείου;" *Dialogue* 1.3. Text Goodspeed (ed.), *Die ältesten Apologeten*.

ἔχει. μάθοις δ' ἂν ἐντεῦθεν).’’³⁷

Justin learned from this old man that there are ancient writings of Jewish prophets which have the same sort of status as the writings of Plato: they are original works of truth telling. “In their writings they make no dispositive arguments (οὐ γὰρ μετὰ ἀποδείξεως πεποιήνται) at the time of their statements, for, as reliable witnesses to the truth (ὄντες ἀξιόπιστοι μάρτυρες τῆς ἀληθείας), they are superior to argumentation (ἅτε ἀνωτέρω πάσης ἀποδείξεως).’’³⁸ The old man argues that these texts should be believed because they accurately foretold the future (7.2), and because of the miracles that the prophets were able to perform (7.3). These texts, the old man asserts, are divinely inspired. But for Justin and his interlocutor both, divine inspiration of a text does not vouchsafe textual interpretation as a reliable epistemic tool. Texts like the records of the Hebrew prophets or the writings of Plato are relevant to Justin not because the arguments of either are wholly dispositive, nor because the texts contain the truth in its entirety. Scripture is relevant because it, along with Plato, speaks to a singular truth. Both traditions act as a gateway to Justin’s new life as a philosopher.

Justin’s *Dialogue* is replete with quotations from the Septuagint, as he argues with a

³⁷ Οὐδὲν ἐμοί... μέλει Πλάτωνος οὐδὲ Πυθαγόρου οὐδὲ ἀπλῶς οὐδενὸς ὅλως τοιαῦτα δοξάζοντος. τὸ γὰρ ἀληθὲς οὕτως ἔχει· μάθοις δ' ἂν ἐντεῦθεν. *Dialogue* 6.1.

Translations of Justin’s *Dialogue* are made with reference to Falls and NPNF.

³⁸ οὐ γὰρ μετὰ ἀποδείξεως πεποιήνται τότε τοὺς λόγους, ἅτε ἀνωτέρω πάσης ἀποδείξεως ὄντες ἀξιόπιστοι μάρτυρες τῆς ἀληθείας. *Dialogue* 7.2. The last two clauses are inverted in the Greek.

Jewish interlocutor over the possibility of truth, the error of philosophical schools, the relationship of gentiles to Mosaic law and later biblical prophecy, and a variety of other topics covered in the course of 142 chapters. Justin's interaction with "Christian scripture" has obscured, however, his negotiated relationship with biblical material as a source of truth. The very fact of Justin's engagement with scripture has been confused with his reliance on scripture as an ultimate source of truth. Irenaeus and the author of the *Gospel According to Luke*, for instance, certainly thought that truth was accessible by way of proper exegesis of authoritative texts. But the concept is nowhere to be found in the Justin Martyr's extant writings. Justin *used* biblical material, but that fact should not lead us to presume that he held a similar understanding of biblical material as his predecessors or contemporaries.

Justin's use of scriptural texts in the *Dialogue* is, by his own admission, only a method of argumentation, and one method among many. He takes a very different tack in the *First Apology*, which I discuss below. Justin's seemingly shifting approach to scripture and argumentation between the *Dialogue* and the two apologies has led many to suggest that Justin Martyr was two people, or at least that he evidences a change in methodology between his *Dialogue* and the rest of his extant works.³⁹ This intuition cannot stand; Justin is only inconsistent if readers fail to take seriously his own discussions of epistemic methodology that accompany each of his works.

In the *Dialogue*, Justin engages overwhelmingly with extracts from prophetic texts. He explicitly claims that the "law of Moses" is only incumbent upon Jews, both

³⁹ See the discussion in Edwards, "Justin's Logos," 261–7.

conceptually and textually, and that it is wholly obsolete in light of the Christ event. “Our hope is not through Moses or through the law, otherwise our customs would be the same as yours...The law promulgated at Horeb is meant for you [Jews] only, and is already obsolete.”⁴⁰ Rather, Justin’s interest is in prophecy when debating his imaginary Jew.⁴¹ When making arguments, prophetic texts are superior to the narrative or legal parts of the Hebrew bible because they witness to truth, and they offer a firm starting point for anyone wishing to live a philosophical life: a life that leads to happiness.⁴²

“So, should any one consult a teacher?” I said, “Or where can anyone find help, if

⁴⁰ ἡλπίζαμεν δὲ οὐ διὰ Μωυσέως οὐδὲ διὰ τοῦ νόμου. ἢ γὰρ ἂν τὸ αὐτὸ ὑμῖν ἐποιοῦμεν...

ὁ γὰρ ἐν Χωρήβ παλαιὸς ἤδη νόμος καὶ ὑμῶν μόνων. *Dialogue* 11.1-2.

⁴¹ From this type of engagement it is clear that Trypho in this text does not represent a historical person, certainly not a Jew, but rather that he acts as a literary device. The *Dialogue with Trypho* cannot have been particularly compelling to Jews, but then again it is not clear that Jews are the intended audience. There are a couple of clever arguments, for instance, that circumcision cannot be “justifying” because it is not offered to women, who can be “justified” as well. (23.5) The fact that he is using a Pauline definition of “justification” that would be foreign to a second century Jewish interpreter suggests, again, that his aim is not to convert Jews, but that this use of scripture on his part is meant primarily for internal, Christian consumption. On Justin’s notion of the relationship between Christians and Jews, and the paradoxical position of Jesus between the two, see Andrew S. Jacobs, *Christ Circumcised*, 44–50.

⁴² On the relationship between happiness and philosophy see *Dialogue* 3.

even they [the philosophers] don't have truth?" "A long time ago," he [the old man] replied, "long before the time of those so-called philosophers, there lived blessed men who were just and loved by God, men who spoke through the inspiration of the Holy Spirit and predicted events that would take place in the future, which events are now taking place. We call these men the prophets. They alone knew the truth and communicated it to men, whom they neither deferred to nor feared. With no desire for personal glory, they reiterated only what they heard and saw when inspired by a holy spirit. Their writings are still extant, and whoever reads them with the proper faith will profit greatly in his knowledge of the origin and end of things, and of any other matter that a philosopher should know."⁴³

The prophets, for Justin, were speakers of truth, but not its fountainhead or its sole source. They are older than the Greek philosophers, but they and Plato spoke of the same singular truth. The prophets are credible "because of the miracles which they performed," and their writings inspire awe and spoke to the singular truth long before the advent of the Greek philosophical tradition.⁴⁴ Prophets point to truth, as they were inspired by the Holy Spirit and grasped the truth themselves. The only way for Justin, or anyone else, to

⁴³ *Dialogue* 7.1–2. Emphasis mine. It has been noted before that Justin appears to be working from a *testimonium* of prophetic passages. In fact, the *Dialogue* itself reads as an annotated *testimonium*, aimed not at possible Jewish converts but rather at followers of Jesus who engage with Jews.

⁴⁴ *Dialogue* 7.3.

reach the *telos* of philosophy is through a similar gift of inspiration from the deity. “No one can perceive or understand these truths unless he has been allowed to understand by God and his Christ.”⁴⁵ As Ellen Muehlberger argues, “In the *Dialogue*, Justin did not persuade his character Trypho to read different texts, but to read the same texts differently.”⁴⁶ Justin speaks in the *First Apology* of the “enlightenment” which comes to a person as a byproduct of baptism⁴⁷, and he invokes this framework again in the *Dialogue*, asserting that the unbaptized person reads scriptures in vain, able to grasp the words but not their spirit.⁴⁸

Justin finds great power and solace in the “sayings of the savior,”⁴⁹ just as he does

⁴⁵ οὐ γὰρ συνοπτὰ οὐδὲ συννοητὰ πᾶσιν ἐστίν, εἰ μὴ τῷ θεῷ συνιέναι καὶ ὁ Χριστὸς αὐτοῦ. *Dialogue* 7.3.

⁴⁶ Ellen Muehlberger, *Angels in Late Ancient Christianity*, 59. While I agree with Muehlberger that Justin’s appeal to Trypho is fundamentally hermeneutic, I have argued here that Justin does not exhibit a single “style of reading” (ibid.) throughout the corpus.

⁴⁷ The word that he uses in the *First Apology* is φωτισμός. See especially 61.12 and 65.1. Text Minns and Parvis.

⁴⁸ *Dialogue* 29.2.

⁴⁹ Justin explicitly says that the teachings of his savior (τὰ ὑπ’ ἐκείνου τοῦ σωτῆρος ἡμῶν διδαχθέντα) are to be understood alongside those of the prophets—as a witness, and not as truth in themselves. (18.1) In chapter 20, he explicitly rejects the type of authoritative proof-texting offered by Trypho for Jewish abstinence from certain

in the words of the prophets. There is power in Jesus’s words, and for Justin those words have the uncanny ability to transform lives. He wishes that others would follow his lead, and “never fall away from the sayings of the savior (μὴ ἀφίστασθαι τῶν τοῦ σωτῆρος λόγων). For they have in themselves something awesome (δέος γάρ τι ἔχουσιν ἐν ἑαυτοῖς), and they can instill fear into those who have wandered from the correct path.”⁵⁰ But for Justin, “the sayings of the savior” don’t appear to be textual.⁵¹ In other instances where he speaks explicitly of textualized Jesus material, he doesn’t use the term “λόγοι,” but rather “ἀπομνημονεύματα”—memoirs.⁵² Even if Justin has textualized Jesus material in mind here (“gospel/s”), neither his argumentation in the *Dialogue* nor his sustained reflections on philosophical method find ultimate authority in scripture, or epistemic value in thoroughgoing exegetical engagement. Justin has no concept of a written, authoritative gospel, whether scriptural or otherwise. Scriptures are useful because of what they point to, and because they can transform the lives of those who come into contact with them. But the reason that these particular textual sources are to be trusted is simply because they have proven to be a reliable historical record.

This approach to textual authority leaves Justin open to the charge of incomplete engagement with the text—with “cherry-picking” those passages of the Septuagint that

foods. Such foods should be avoided not due to the authority of the text that prohibits them, but because they “are bitter, or poisonous, or thorny.” (20.3)

⁵⁰ *Dialogue* 8.2.

⁵¹ See Larsen and Letteney, “Christians and the Codex,” 404–405.

⁵² In *1 Apology* 66.3 Justin indicates that ἀπομνημονεύματα are called “gospels.”

appear to foretell things that had come to pass.⁵³ In chapter 27 of the *Dialogue* he responds just such an accusation by Trypho. “Why do you quote only those passages from the prophets which prove your point, and omit those quotations which clearly order the observance of the Sabbath?”⁵⁴ Justin’s response demonstrates further that exegesis is not the central locus of truth for him. His claim is that parts of the Biblical prophetic texts, as well as the Mosaic law as recorded, have been abrogated.

“My friends,” I replied, “I have not omitted such passages on purpose from the prophets because they do not coincide with my teaching, but because (as you well understand), although God through his prophets gives you identical commands as he did through Moses, this was done only on account of your hardness of heart and ingratitude toward him.”⁵⁵

Scripture, in other words, is not a repository for preceptual knowledge. Nor is textual interpretation a sufficient or even necessary epistemic operation. Truth, for Justin, is pre-textual, and even biblical prophecy teems with error and outdated dogma.

⁵³ See, for instance, *Dialogue* 52–53, where Justin reads *Genesis* 49.8–12 to indicate a future, suffering messiah who will ride into Jerusalem on an ass.

⁵⁴ Διὰ τί ἄπερ βούλει ἐκλεγόμενος ἀπὸ τῶν προφητικῶν λόγων λέγεις, ἃ δὲ διαρρήδην κελεύει σαββατίζειν οὐ μέμνησαι? *Dialogue* 27.1.

⁵⁵ Οὐχ ὡς ἐναντιουμένων μοι τῶν τοιούτων προφητειῶν, ὧ φίλοι, παρέλιπον αὐτάς, ἀλλὰ ὡς ὑμῶν νενοηκότων καὶ νοούντων ὅτι, καὶ διὰ πάντων τῶν προφητῶν κελεύη ὑμῖν τὰ αὐτὰ ποιεῖν ἃ καὶ διὰ Μωυσέως ἐκέλευσε, διὰ τὸ σκληροκάρδιον ὑμῶν καὶ ἀχάριστον εἰς αὐτὸν. *Dialogue* 27.2.

This leads to a more fundamental concern that animates Justin's approach to the search for truth. He is skeptical of tradition. The opening of his *Dialogue* (2.1) explains that philosophy has become so "fractured (πολύκρανος)" because of the failures of traditional authority. Justin does not distrust processes of handing down knowledge from previous authorities because of failures of the knowledge handed down; it is not that Plato's students did not know what he taught, or that Plato's teachings were not valid. Rather, Justin claims that a philosophy, or an epistemology, based solely on tradition is doomed to fail. In time, the earnest learning of "holy men" necessarily becomes reified as dogma, and handed down from teacher to student in the name of the source rather than in service of the truth.

I want to explain why it has grown so divergent [lit: many-headed] (οὗ δὲ χάριν πολύκρανος ἐγενήθη, θέλω εἰπεῖν). They who first embraced it [philosophy] (and, as a result, were deemed "illustrious") were succeeded by people who gave no time to the investigation of truth. Rather, being amazed at the endurance and self-control of them [their teachers], as well as with the novelty of their teachings, believed to be the truth what each had learned from their own teacher (ἀληθῆ νομίσαι ἃ παρὰ τοῦ διδασκάλου ἕκαστος ἔμαθεν). They transmitted to their successors such opinions in turn, and others like them, and so they became known by the name of him who was considered the father of the teaching (ὅπερ ἐκαλεῖτο ὁ πατὴρ τοῦ λόγου).⁵⁶

Justin repeats this attack on the authority of tradition in his *First Apology*, which was

⁵⁶ *Dialogue* 2.2.

addressed to the emperor Antoninus Pius. In fact, the beginning of his address calls on the emperor to forsake “the teachings of the ancients (δόξαις παλαιῶν)” when they are of no value, and to follow instead the council of “sound reason (ὁ σώφρων λόγος).”⁵⁷ Only if the emperor is willing to do this are people correct to deem him among the “pious and philosophers and guardians of justice and lovers of learning.”⁵⁸ At the beginning of his plea to the emperor, Justin reiterates his contention that tradition cannot vouchsafe truth.⁵⁹ Rather, there is one truth that can be accessed through many different means: sometimes by searching the Scriptures to find what they point to, sometimes through the guidance of “sound reason,” and sometimes through the tradition of philosophical investigation. For Justin, the audience, and their preexisting epistemic commitments, determine the relevant path.

To suggest that Justin’s approach to the authority of scriptural traditions is anything like an exegetical concern is a failure to read his own rationale for proceeding the way that he does in these two different contexts. Even when debating an imaginary Jew, Justin’s locus of truth is not scripture. Biblical material proves the antiquity of his claims, but not their veracity. Similarly, in the *First Apology* he uses Septuagint and New

⁵⁷ *First Apology* 2.1.

⁵⁸ *First Apology* 2.2.

⁵⁹ This is the case even when the tradition in question is properly passed down, and began in the mouths of “holy people.” “In truth, they who have applied themselves to philosophy are holy men (ὅσιοι ὡς ἀληθῶς οὗτοί εἰσιν οἱ φιλοσοφία τὸν νοῦν προσεσχηκότες).” *Dialogue* 2.1.

Testament material to prove sociological points about how Christians act, not theological points about what they should believe.⁶⁰

This structure of knowledge, in which a teacher is a fountainhead of true knowledge but not its guarantor, is confirmed both by Justin's citations of scriptural texts and his citation of philosophical predecessors. Justin discusses the capacity of philosophers to gain knowledge of the deity in chapter three of the *Dialogue*. He cites Plato to constrain even his *own* ability to teach truth, or to bring the mind of a student to perceive God.

“Then, how,” [the old man] reasoned, “can the philosophers speculate correctly or speak truly of God, when they have no knowledge of him— having neither seen or heard?” “But father,” I rejoined, “the deity cannot be seen by the same eyes as other living beings are. He is to be perceived by the mind alone, as Plato affirms, and I agree with him. (ὥς φησι Πλάτων, καὶ ἐγὼ πείθομαι αὐτῷ)”⁶¹

Justin is committed to the idea that truth is singular even though a wide range of sources witness to it. The commitment allows him to practice a sensitivity to the epistemic commitments of his interlocutors, and to tailor arguments to their methodological concerns. When speaking to a Jew, he says “Since I base my arguments and suggestions on the writings and on examples (ἀπό τε τῶν γραφῶν καὶ τῶν πραγμάτων), you should not hesitate to believe me, despite the fact that I am uncircumcised.”⁶² Justin “bases his

⁶⁰ See especially *First Apology* 6–12.

⁶¹ *Dialogue* 3.7.

⁶² Ἐπειδὴ ἀπό τε τῶν γραφῶν καὶ τῶν πραγμάτων τάς τε ἀποδείξεις καὶ τὰς ὁμιλίας ποιοῦμαι ἔλεγον, μὴ ὑπερτίθεσθε μηδὲ διστάζετε πιστεῦσαι τῷ ἀπεριτμήτῳ ἐμοί.

suggestions on the writings and on examples” because, by his own admission, he knows that scriptural proofs are useful in context of debate with Jews. But textual interpretation is not a bedrock principle; it is a method.

By contrast, biblical material is hardly ever cited in the *First Apology*. When Justin does cite biblical or New Testament texts, he uses them not to prove a theological point, but almost always to prove a sociological point: he first mentions what Christians do and the rationale for it, and then brings a citation, usually from the sayings of Jesus, to show that Christian tradition prescribes their actions. These are “citations” in a very different sense from what we see in the *Dialogue with Trypho*—Justin uses texts simply to show that there is an external source for the teaching which he claims is common among Christians; his citation of New Testament texts does not suppose that the teaching is authoritative.

Justin’s citations are context specific—he is able to code switch, citing texts or not depending on his audience. Sometimes texts constitute an authoritative witnesses to truth while sometimes they are, at best, a sort of secondary legal documentation that back up claims that Justin makes on philosophical grounds, or on the basis of his own personal authority. I argue that this is the fatal flaw in analyses that focus on Justin first and foremost as an interpreter of scripture.⁶³ Neither his own statements about method, nor an analysis of his work, reveals him to be interested in scriptural interpretation as an

Dialogue 28.2.

⁶³ See Susan Wendel, *Scriptural Interpretation and Community Self-Definition*, 87-9, 97-102; as well as Philippe Bobichon, *Justin Martyr: Dialogue avec Tryphon*, 1:126–7.

anything other than a proximate method.

Irenaeus

Irenaeus wrote in Greek during the last two decades of the second century, and was the first major Christian polemicist to receive widespread and enduring acclaim.⁶⁴ His intellectual project is centrally focused on fabricating a new Christian epistemology that able to withstand the arguments of his “gnostic” opponents: Christians who claim to have found truth, but whose *gnosis* is “falsely so-called.” According to Eric Osborn, “Irenaeus follows Justin but with wider vision, for he is the first writer to have a Christian bible before him.”⁶⁵ He thus serves as a fitting place to continue my investigation of the varied

⁶⁴ His major treatise, *Against the Heresies*, was composed in Greek but survives intact only in a Theodosian age Latin translation witnessed in three medieval manuscripts, along with extensive Greek quotations in Eusebius’s *Ecclesiastical History* and Epiphanius’s *Medicine Chest Against Heresies* (“*Panarion*”). Its early circulation is confirmed by two papyri (P. Oxy 3.405 [TM 61317], an early third century Greek roll fragment containing a quotation from 3.9, and a papyrus roll fragment at Universität Jena [TM 61318] from the third/fourth century) as well as the work’s extensive use by Clement in Alexandria, Hippolytus in Rome, and Tertullian in Carthage. Eusebius (*Ecclesiastical History* 4.18.8) mentions a number of other works, all of which are now lost except for Irenaeus’s *The Demonstration of the Apostolic Preaching*, which survives in a sixth century Armenian version.

⁶⁵ Osborn, *Irenaeus of Lyons*, xi.

conceptions of scripture, citation, and truth telling that early Christian scholars held.

While Justin and Ignatius found the central node of authority not in scriptural texts but in institutional structures and in philosophical reasoning (respectively), Irenaeus is the first significant proto-Orthodox voice to consider exegesis to be at least notionally dispositive in an epistemic sense. At its core, Irenaeus's opposition to heresy was a project of epistemic construction. I argue that he was able to "overthrow" heretical doctrines only by articulating for the first time a structure of knowledge, and a process for knowledge creation, that was immune to the subversions of his "gnostic" opponents.

Josef Hoh has argued that there is a central aesthetic quality to Irenaeus' citational practices that is best described with the rule "it is fitting, it is possible, therefore it is."⁶⁶ In this sense Irenaeus's epistemology is not fundamentally dissimilar from that of Marcion, who apparently believed that the plan of salvation can be discerned from the structure of salvation;⁶⁷ both men agree that, when approaching textual sources, the central aim is to understand god's intention based on god's actions in the world. For Irenaeus, there was a singular, universal plan for salvation that was simultaneously indicated in scripture and passed down from Jesus to the apostles, and ultimately to their followers. In this way, Irenaeus's hermeneutic allows for no variation, no expansion or

⁶⁶ "Decet—fieri potest—ergo est." This "Schlußformel" was devised initially by Hoh, *Die Lehre des Hl. Irenäus über das Neue Testament*, 112, and is repeated in Osborn, *Irenaeus of Lyons*, 18.

⁶⁷ For Irenaeus, Osborn gathers this notion under the concept of "Economy." Osborn, *Irenaeus of Lyons*, 21.

evolution, and certainly no contradiction. In fact, as will become clear below, Irenaeus claims that allowing the *possibility* of contradiction among sources is the animating epistemic error among gnostic Christians.

Irenaeus's *Against the Heresies* claims a dual intention: it is both an “uncovering” (*detectio*/Ἐλέγχου) and an “overturning” (*eversio*/ἀνατροπῆς) of heretical doctrines.⁶⁸ Surprisingly, in book one Irenaeus hardly cites scripture at all. This circumstance is strange because elsewhere, Irenaeus relies heavily on scripture as a central locus of authority. In this case, the relative dearth of citations appears to be the result of the opponent that Irenaeus thinks he is arguing against in book one—“gnostics.” His aim in book one is to “uncover” rather than to “overturn.” Irenaeus saw scripture as a repository from which one could read doctrine, but his opponents found only glimmers of truth in text; doctrine was part of the story, but did not encapsulate its entirety. In so far as the aim of book one is an “uncovering” of heretical doctrines and a destruction of “evil

⁶⁸ *Against Heresies* 2.pr.2 “Since this work is both an uncovering and an overthrowing of their opinions, we have given it this title (*Quapropter quod sit ‘detectio et eversio sententiae ipsorum,’ operis huius conscriptionem ita titulavimus*).” The Greek title of the work appears to have been Ἐλέγχος καὶ ἀνατροπὴ τῆς ψευδωνύμου γνώσεως. Eusebius, *Ecclesiastical History* 5.7.1. See Winrich Löhr, “The Orthodox Transmission of Heresy,” 161–3. Text of *Against Heresies* throughout is taken from SC vols. 100, 152, 153, 210, 211, 263, 264, 293, 294. Translations are adapted from Unger.

interpreters,”⁶⁹ Irenaeus apparently thought that scripture was not a particularly potent ally. Beginning in book two, however, and especially in book three, Irenaeus changes tack, using two distinct but intertwined categories as tools to “overthrow” gnostic doctrines: scripture and tradition. Irenaeus defines scriptural texts as ‘that which was once oral and was handed down by the apostles,’ and thus scripture and tradition are opposite sides of the same coin in his argumentation.⁷⁰

We received the knowledge of the plan of our salvation through no others than those through whom the gospel (*euangelium*) was handed down to us. This gospel they first preached orally, but later, by god’s will, they handed it down to us in the writings (*in scripturis nobis tradiderunt*⁷¹) so that it would be the foundation and

⁶⁹ *Interpretatores mali*. Irenaeus, *Against the Heresies* 1.pref.1.

⁷⁰ See also *Against Heresies* 1.8.1, where Irenaeus offers a critique of his opponents on these grounds. “Such is their system which neither the prophets preached, nor the Lord taught, nor the apostles handed down. (*Cum sit igitur tale illorum argumentum, quod neque prophetae praedicaverunt, neque dominus docuit, neque apostoli tradiderunt*).”

⁷¹ Irenaeus’ original, needless to say, did not read *in scripturis nobis tradiderunt*. This phrasing comes from the Theodosian Age translation of the Greek original, and the translation includes throughout the use of language that was significantly more technical and theologically laden in the late fourth century than it was in the late second, at this texts’ time of composition. Rousseau and Doutreleau’s Greek translation in SC 211 is almost certainly the correct rendering of the original: ἐν

pillar of our faith.⁷²

Scripture, for Irenaeus, is relevant only because it is guaranteed by, and guarantees, a certain apostolic succession. Irenaeus places tradition and text together in order to find truth at their intersection. He can do this, he claims, because the scriptures are in harmony with the teaching of the apostles, and because all of the apostles taught the same thing.

And so, all who wish to see the truth can view in the whole Church the things handed down by the apostles (*traditionem apostolorum*), which have been disclosed in the whole world. We are also able to enumerate the bishops who were established in the churches by the apostles, and their successions even down to ourselves... Since, however, in a work of this kind it would be too long to list the successions of all the churches, we will address here the tradition of the greatest and most ancient church, known to all, founded and built up at Rome by the two most glorious apostles, Peter and Paul: the tradition received from the apostles, as well as the faith proclaimed to people, which has come down even to us through the succession of bishops... On account of her greater authority, it is necessary that every church (that is, the faithful who are everywhere) should agree with this church, because in her the apostolic tradition has always been

γραφαῖς παρέδωκαν ἡμῖν. When reading (and especially when translating) Irenaeus' text, it is of paramount importance to remember the subtle distortions of language brought about by Orthodox translators of the fourth century.

⁷² *Against Heresies* 3.1.1.

safeguarded by those who are everywhere.⁷³

Biblical material is an ally for Irenaeus in “overthrowing” his heretical opponents because of its consistency. This is the central tenet of Irenaeus’ hermeneutical approach: the apostles taught one message among themselves, and that message is repeated as a single, coherent message in scriptures as well. His opponents, for their part, apparently did not agree with this premise. Irenaeus commands that

We are not permitted to say that they preached before they had received “perfect knowledge,” as some dare to state, boasting that they are the correctors of the apostles. For, after our Lord had risen from the dead, and they were clothed with power from on high when the holy spirit came upon them, they had full assurance concerning all things, and had perfect knowledge. Only then did they go forth to the ends of the earth, bringing us the good news about the blessings that were sent from God to us and announcing heavenly peace to men, inasmuch as they collectively, and each of them individually, equally possessed the gospel of god.⁷⁴

Through this hermeneutic Irenaeus was able to build an epistemology capable of “overthrowing” what he considers to be perverted uses of scripture. Scripture speaks from the position of the apostles, and the apostles’ teaching did not vary according to their audience.

So far as surviving material suggests, Irenaeus was the first Christian scholar to suggest that Jesus’s message was fully intact only in four, distinct “pillars” called

⁷³ *Against Heresies* 3.1.1–2.

⁷⁴ *Against Heresies* 3.1.1.

gospels, the first to suggest a name, date, and place for “publication” of the gospels,⁷⁵ the first to offer a thoroughgoing analysis of biblical material based on the premise of scriptural coherence, and the first to connect definitively the interpretation of scripture with the patrimony of apostolic teaching as a check on reading and the production of valid knowledge. According to Hansjürgen Verweyen, this is the true, lasting impact of Irenaeus’ intellectual project.⁷⁶

He is certainly correct: Irenaeus’s hermeneutic, in service of an epistemology, came to define the boundaries of Orthodox reading and the production of Orthodox truth in a way that no previous method had. But Irenaeus’s epistemology did not appear *de novo*. It was articulated in the context of an opposing position, and arose as an antidote to a “gnostic” threat. As Elaine Pagels demonstrates: Irenaeus was not concerned simply to root out heretical doctrines. Rather, “what Irenaeus identified as ‘heresy’ among Valentinian Christians was *hermeneutical* [that is, epistemic] *teaching communicated in ritual*—and specifically any form of initiation that could constitute distinct groups within Christian congregations.”⁷⁷

⁷⁵ Matthew D. C. Larsen, “Correcting the Gospel,” 89–94.

⁷⁶ “In der Ausfaltung dieses formalen Aspekts seiner Antwort auf die Herausforderung durch die Gnosis liegt des Irenäus wirkmächtigster Beitrag im Blick auf die Gestaltwerdung kirchlicher Theologie: im Insistieren auf einem Kanon verbindlicher Schriften und auf der Sicherung ihrer authentischen Interpretation.” Verweyen, “Frühchristliche Theologie,” 396.

⁷⁷ Elaine Pagels, “Irenaeus, the ‘Canon of Truth,’ and the ‘Gospel of John,’” 349.

Irenaeus defined an epistemology regarding the proper production of knowledge in response to, and as a foil for, opposing (“gnostic”) epistemic commitments. His opponents claimed that the apostolic teaching which appears in written texts stems from the period before the apostles had received “perfect knowledge.”⁷⁸ For Irenaeus’s (perhaps real, and perhaps imagined) opponents, proper theological method required a knowledge not only of the scripture, but also of the keys to unlock scripture’s true meaning that were passed down orally.⁷⁹ Irenaeus agrees with his opponents in part; both hold that scripture is insufficient without tradition. Irenaeus adds, however, that it is impossible for scripture and tradition to diverge; they work together, with one as a check

⁷⁸ *Against Heresies* 3.1.1, cited above.

⁷⁹ “Indeed, when they are exposed by means of the Scriptures, they turn around and make accusations against the Scriptures themselves, as if these were not correct or were not authentic and stated things variously, and that the truth cannot be found in them by those who are ignorant of tradition. They claim the truth was not handed down by writings, but by a living voice, of which matter Paul said, ‘Yet among the mature we do impart wisdom—although it is not the wisdom of this world.’ And each one of them claims as this wisdom that which he discovers by himself, which is really a fiction, so that their truth may fittingly be in Valentinus at one time, at another in Marcion, at another in Cerinthus, finally in Basilides, or even in one who disputes against these and would not be able to say anything pertaining to salvation. For each one of them, being totally corrupt, is not ashamed to deprave the rule of truth and preach himself.” *Against Heresies* 3.2.1.

on the other.⁸⁰

Since there are, then, such great proofs, it does not behoove to seek further among others for the truth, which can be obtained easily from the Church; for the apostles most abundantly placed in it, as in a rich receptacle, everything that belongs to the truth (*omnia quae sint veritatis*), so that everyone who desires can take from it the drink of life. For it is the entrance to life; all others are thieves and robbers. For this reason we ought to avoid them. On the other hand, we ought to love with the greatest diligence whatever pertains to the Church, and to lay hold of the tradition of the truth (*veritatis traditionem*).⁸¹

Epistemic error precedes and animates heresy, for Irenaeus. Fortunately, epistemic error is not particularly hard to uncover—a believer can identify it through the substantive truths that it produces, by comparing the results of faulty exegesis with the “rule of truth” that they received at baptism. In book one of *Against Heresies* he takes aim at Valentinian exegetes who behave like Homerocentones: dicing and splicing bits of text to make them say whatever the reader wants to hear.

However, if [an interpreter] takes them and puts each one back into its own book, he will make their fabricated system disappear. Thus, whoever keeps within himself—without wavering—the rule of truth that he received through baptism, recognizes the names and sayings and parables from the scriptures, but he won’t

⁸⁰ See especially *Against Heresies* 3.3–4.

⁸¹ *Against Heresies* 3.4.1.

recognize this blasphemous system of theirs.⁸²

For Irenaeus, theological speculation is perfectly acceptable, as is some degree of disagreement within the orthodox community.⁸³ There are, however, a set of precepts and epistemic strategies that are non-negotiable. The most important of these is the notion that scripture and tradition cannot diverge, and that scripture cannot contradict itself.

Irenaeus's epistemic methodology became the dominant approach to theology among subsequent proto-Orthodox thinkers. In fact, the very definition that contemporary scholars use to delineate the "proto-Orthodox" tradition is indebted to this epistemic system: those who held to Irenaeus's methodology carry on the "proto-Orthodox" patrimony. It is immaterial whether this particular approach to scripture and tradition preceded Irenaeus's engagement with gnostic heretics; subsequent theologians encountered and appropriated Irenaeus's method through his hereseological account, not through his direct teaching. The theological method that defined boundaries of Orthodoxy in antiquity was founded on, and perpetually reinscribes, the idea that heresy *can* be substantive, but that it fundamentally proceeds from an epistemic error.

⁸² ἄρας δὲ αὐτὰ καὶ ἐν ἑκάστον ἀποδοὺς τῇ ἰδίᾳ βίβλῳ ἐκποδὼν ποιήσει τὴν παροῦσαν ὑπόθεσιν. οὕτω δὲ καὶ ὁ τὸν κανόνα τῆς ἀληθείας ἀκλινῇ ἐν ἑαυτῷ κατέχων, ὃν διὰ τοῦ βαπτίσματος εἴληφεν, τὰ μὲν ἐκ τῶν γραφῶν ὀνόματα καὶ τὰς λέξεις καὶ τὰς παραβολὰς ἐπιγνώσεται, τὴν δὲ βλάσφημον ὑπόθεσιν ταύτην οὐκ ἐπιγνώσεται. *Against Heresies* 1.9.4. The Greek is extant due to Epiphanius's quotation of Eusebius in the *Panarion*.

⁸³ Elaine Pagels, "Irenaeus, the 'Canon of Truth,' and the 'Gospel of John,'" 347–8.

Irenaeus' intellectual project was as much epistemic as it was preceptual or dogmatic, and certainly his effect on later Christian theological scholarship was overwhelmingly methodological.⁸⁴ Irenaeus's specific arguments against "heresies" faded into the domain of historical knowledge as the specific groups at whom they were aimed were no longer considered a threat. But I argue that his method of producing knowledge that could defeat opponents lived on remarkably intact in the work of subsequent Christian theological thinkers at least through the fourth century, when "apostolic tradition" was refigured around creedal statements rather than networks of intellectual patrimony.

Irenaeus focused his critical aim and intellectual energies on refuting opponents who approach scripture illegitimately. These people, "having been refuted by the scriptures, turn around and accuse the same scriptures as if they were neither correct nor authoritative, and assert that they are inconsistent (*varie*), and that those who do not know the tradition are not able to find truth in them."⁸⁵ Irenaeus's heretics assert that the truth

⁸⁴ The outsized importance of Irenaeus's methodological contribution to the patrimony of fourth century Orthodoxy is underscored by the fact that, from book three, only these statements on method and epistemology, as well as records of the tradition's "chain of custody," remain extant in Greek.

⁸⁵ *Cum enim ex scripturis arguuntur, in accusationem convertuntur ipsarum scripturarum, quasi non recte habeant neque sint ex auctoritate, et quia varie sint dictae, et quia non possit ex his inveniri veritas ab his qui nesciant traditionem. Against Heresies 3.2.1.*

“was not handed down through written texts (*litteras*)... but through the living voice.”⁸⁶

When he wrote this, perhaps Irenaeus had the long-departed Valentinus in mind, or was taking aim at members of the Valentinian “school.” But one opposing voice, who believed that “those who do not know the tradition are not able to find truth” in the scriptures, was assimilated into the same canon of proto-Orthodox thinkers as Irenaeus—the voice was Tertullian’s. I turn now to Irenaeus’s younger contemporary, who espoused a fundamentally opposite epistemic methodology. It was his preceptual commitments, rather than his epistemic method, that earned Tertullian space under the umbrella of “proto-Orthodoxy,” in antiquity as well as today.

Tertullian

All of Tertullian’s extant writing is occasional and polemical; extended discourses on method are few and far between. The first Christian literary figure of the Latin West spent the majority of his writing career batting down heresies rather than constructing a systematic theological program.⁸⁷ The question of the relationship between scripture,

⁸⁶ *Non enim per litteras traditam...sed per vivam vocem. Against Heresies* 3.2.1.

⁸⁷ The extent to which Tertullian speaks for any wider “Christian community” beyond his own “world of literary and antiquarian fascination” (3) has been called into question recently by Carly Daniel-Hughes and Maia Kotrosits. “Attention to his sources reveals that Tertullian constructs the attacks and insults waged against Christians from writings.” Daniel-Hughes and Kotrosits, “Tertullian of Carthage and the Fantasy Life of Power,” 22.

tradition, and heresy, however, gave Tertullian occasion to articulate an epistemic position on positive terms. His position is found most clearly in his *Concerning Exemptions against Heretics* (*De praescriptionibus adversus haereticos*). For Tertullian, heresy is the name that one gives to an epistemic failure, not a preceptual position. He argues that texts are at least notionally capable of expressing truth, but that the text of scripture is underdetermined, and that authoritative exposition of scripture requires a pre-textual knowledge of truth to which scripture is, at best, a faulty witness. Heretics are precisely those who look to scripture, or anywhere else, in order to discover truths beyond the “rule of faith (*regula fidei*)” received through the apostolic tradition; the act of theological speculation itself is heresy, not the form of the questions or the content of the answers. Tertullian argues, therefore, that heretics should not be engaged on the basis of scripture. They are the recipients of a *praescriptio*, an exemption.

Around the time of Tertullian’s birth, the jurist Gaius defined the legal term *praescriptio* as a clause or document that precedes a legal formulary. It constrains the authority of the judge and the validity of the proceedings to a particular aspect of a case, for instance the validity of a contract.⁸⁸ Whatever Tertullian means by *praescriptio*, it is not precisely the legal use of the term from Roman formulary procedure.⁸⁹ Rather,

⁸⁸ Gaius, *Institutes* 4.130–137.

⁸⁹ André Sergène shows that Tertullian is at least inconsistent in his use of “*praescriptio*” and its cognates, and does not use it in the sense of the formulary procedure described in Gaius. Sergène, “Tertullien *De praesc. haer.* XXXVII, 4 et la *longi temporis praescriptio*,” especially pages 607–8. There has long been a debate as to whether

Tertullian's own use of the term should be understood as a *prae-scriptio*, a discussion before one gets to interpretative questions regarding scripture with heretics. The point of the argument is nicely summed up in its appellation: truth itself is *prae-scriptio*—it is to be grasped before one accedes to, or even approaches, text. In a very real sense, truth is “pre-scriptural.” It cannot be found in books, and thus there is no use in debating scripture with heretics who do not come to scripture having already assented to a set of preceptual commitments. Tertullian does not offer such an absolutist position as we will see in the *Gospel of Truth*, which denies the capacity of text to contain or express truth in any useful sense. For Tertullian, the text of scripture serves as an exemplar of behavior, but it is not a depository of truth. Scriptural texts *could* state clearly answers to metaphysical and Christological questions answered (wrongly) by heretics, but they do not. Tertullian is the earliest extant writer to espouse this a position regarding the

this *Quintus Septimius Florens Tertullianus* of Carthage is the same as the jurist *Tertullianus* who wrote a book *De peculio castrensi*, cited in *CI* 5.70.7.1. The identification is not impossible, but neither is it likely. See Rankin, “Was Tertullian a Jurist?”; Barnes, *Tertullian*, 22–9; and Remo Martini, “Tertulliano giurista e Tertulliano padre della Chiesa.” As shown by Wolfgang Kunkel, the cognomen *Tertullianus* was not common in the third century, but neither was it uncommon. Epigraphic evidence demonstrates that the cognomen was used throughout the empire, and there were at least two senators in the third century who had the cognomen, but were not related to each other, or to either the jurist or the theologian. Kunkel, *Herkunft und soziale Stellung der römischen Juristen*, 236–240.

relationship between textuality, truth, and scripture. By the advent of the Theodosian age this position was dominant and coterminous with Orthodoxy—at least with the Orthodoxy of which Athanasius is an exemplar.

Tertullian's conception of heresy is, at base, etymological: it is a "choice," derived as it is from the Greek word αἵρεσις.⁹⁰ The existence of heresies was foretold⁹¹ both by "the sayings of the Lord and...the letters of the apostles,"⁹² but true Christians are not permitted to make theological choices in any capacity.

To be clear: we are not permitted to cherish any object after our own will, nor to choose anything that another has suggested by his own judgment. We have our

⁹⁰ "Of these the practical effects are false doctrines, called in Greek heresies, a word used in the sense of that choice which a man makes when he either teaches them (to others) or takes up with them (for himself) (*Quarum opera sunt adulterae doctrinae, haereses dictae graeca voce, ex interpretatione electionis qua quis, sive ad instituendas, sive ad suscipiendas eas utitur.*)" *Concerning Exemptions against Heretics* 6. Text PL 2.9a–74a, translations throughout adapted from ANF.

⁹¹ *Concerning Exemptions against Heretics* 1, compare Tertullian, *Against Valentinians* 5.

⁹² "But let us rather be mindful of the sayings of the Lord, and of the letters of the apostles; for they have both told us beforehand that there shall be heresies (*Quin potius memores simus tam dominicarum pronuntiationum quam apostolicarum litterarum, quae futuras haereses praenuntiarunt.*)" *Concerning Exemptions against Heretics* 4. PL 2.15c.

authority in Lord's apostles, and even they did not choose to suggest anything from their own judgment. Rather, they faithfully delivered to the nations the knowledge which they received from Christ. Therefore, even if an angel from heaven should preach any other gospel, he would be called accursed by us.⁹³

Wherever there is dissension among Christians, heresy has arisen, and it has arisen out of vain and ill-considered speculation beyond the bounds of “the rule of faith (*regula fidei*).” Tertullian argues that the “rule of faith” comprises preceptual knowledge, and not epistemic method. The truths that have been revealed, and the only truths to which Christians are privy, were spoken by Christ to the Apostles, and passed from the Apostles onward. This knowledge should be considered an end in and of itself, and not a stepping stone for progressive revelation or ever more fine-grained theological analysis.⁹⁴

⁹³ *Nobis vero nihil ex nostro arbitrio inducere licet, sed nec eligere quod aliquis de arbitrio suo induxerit. Apostolos Domini habemus auctores, qui nec ipsi quidquam ex suo arbitrio, quod inducerent, elegerunt; sed acceptam a Christo disciplinam fideliter nationibus assignaverunt. Itaque etiamsi angelus de coelis aliter evangelizaret, anathema diceretur a nobis.* Tertullian, *Concerning Exemptions against Heretics* 6. *PL* 2.18b–c.

⁹⁴ “Away with all attempts to produce a mottled Christianity of Stoic, Platonic, and dialectic composition! We want no curious disputation after possessing Christ Jesus, no inquisition after enjoying the gospel! With our faith, we desire no further belief. For this is our primary faith, that there is nothing which we ought to believe besides (*Viderint, qui stoicum et platonicum et dialecticum Christianismum protulerunt.*

The most surprising piece of Tertullian's excursus on epistemic methodology in *Concerning Exemptions against Heretics* is his use of scriptural texts to discount the validity of textual interpretation as an epistemically valid maneuver. It is the heretics, Tertullian stresses, who quote Matthew 7:7, which says "Seek and you shall find." But this message was preached by Jesus at the *beginning* of his ministry, and was aimed at Jews. It does not apply to gentiles, who are Tertullian's audience, and constitutes only an "example."⁹⁵ The apostles sought and found, and the truth has already appeared in the world: it is the "rule of faith" that can be laid out in the space of 116 words, the final sentence of which reads "This rule was instituted by Christ; it raises no questions among us other than those than those which heresies introduce, and which make people into heretics. (*Hanc regulam a Christo institutam nullas apud nos habere quaestiones, nisi*

Nobis curiositate opus non est, post Christum Iesum; nec inquisitione, post Evangelium. Cum credimus, nihil desideramus ultra credere. Hoc enim prius credimus, non esse quod ultra credere debeamus)." *Concerning Exemptions against Heretics* 7. PL 2.20b–21a.

⁹⁵ "All the Lord's sayings, indeed, are set forth for all men; through the ears of the Jews have they passed on to us. Still most of them were addressed to Jewish persons. They therefore did not constitute instruction properly designed for ourselves, but rather an example (*Omnia quidem dicta Domini omnibus posita sunt, quae per aures Iudaeorum ad nos transierunt; sed pleraque in personas directa, non proprietatem admonitionis nobis constituerunt, sed exemplum*)." *Concerning Exemptions against Heretics* 8.

quas haereses inferunt, et quae haereticos faciunt).”⁹⁶ Seeking was relevant only *before*

⁹⁶“Now, with regard to this rule of faith— that we may from this point acknowledge what it is which we defend—it is, you must know, that which prescribes the belief that there is only one God, and that He is none other than the Creator of the world, who produced all things out of nothing through His own Word, first of all sent forth; that this Word is called His Son, and, under the name of God, was seen in diverse manners by the patriarchs, heard at all times in the prophets, at last brought down by the Spirit and Power of the Father into the Virgin Mary, was made flesh in her womb, and, being born of her, went forth as Jesus Christ; thenceforth He preached the new law and the new promise of the kingdom of heaven, worked miracles; having been crucified, He rose again the third day; (then) having ascended into the heavens, He sat at the right hand of the Father; sent instead of Himself the Power of the Holy Ghost to lead such as believe; will come with glory to take the saints to the enjoyment of everlasting life and of the heavenly promises, and to condemn the wicked to everlasting fire, after the resurrection of both these classes shall have happened, together with the restoration of their flesh. This rule was instituted by Christ; it raises no questions among us other than those than those which heresies introduce, and which make people into heretics (*Regula est autem fidei, ut iam hinc quid defendamus profiteamur, illa scilicet qua creditur, unum omnino Deum esse, nec alium praeter mundi conditorem; qui universa de nihilo produxerit, per Verbum suum primo omnium emissum; id Verbum, Filium eius appellatum, in nomine Dei varie visum a Patriarchis, in Prophetis semper auditum, postremo delatum ex Spiritu Patris Dei et*

the advent of truth, brought by Jesus. Searching the scriptures for truth is nonsensical—they merely offer examples of those who have sought and found. Scripture is not a depository for the preceptual truths to which all Christians must properly accede.

The true faith, for Tertullian, is preceptual, and tightly bound. It is not the extent of possible preceptual knowledge—knowledge beyond the “rule of faith” is at least notionally possible. But the act of seeking anything beyond that which was received in faith is a rejection of that faith. *Seeking* is epistemic heresy, no matter the preceptual outcome. Tertullian is explicit in claiming that Jesus’s admonition to “seek” is categorically disallowed to anyone who would call themselves a Christian.

“For to everyone that asks,” says [Jesus], “it shall be given, and to him that knocks it shall be opened, and by him that seeks it shall be found.” Away with the man who is ever seeking, because he never finds! For he seeks there where nothing can be found! Away with him who is always knocking, because it will

virtute in virginem Mariam, carnem factum in utero eius, et ex ea natum egisse Iesum Christum; exinde praedicasse novam legem, et novam promissionem regni coelorum; virtutes fecisse; fixum cruci, tertia die resurrexisse; in coelos ereptum sedisse ad dexteram Patris; misisse vicariam vim Spiritus Sancti, qui credentes agat, venturum cum claritate, ad sumendos sanctos in vitae aeternae et promissorum coelestium fructum, et ad profanos adiudicandos igni perpetuo, facta utriusque partis resurrectione cum carnis restitutione. Hanc regulam a Christo institutam nullas apud nos habere quaestiones, nisi quas haereses inferunt, et quae haereticos faciunt).” Concerning Exemptions against Heretics 13–14. PL 2.26b.

never be opened to him! He knocks where there is no one [to open]. Away with him who is always asking, because he will never be heard! For he asks of one who does not hear.⁹⁷

Tertullian repeatedly points to scriptural stories as a way of stressing that scripture is not a repository for truth, and that the act of searching for answers beyond the preceptual truths listed in chapter thirteen is itself heresy.

That old woman [in Luke 15] had lost one of her ten pieces of silver, and so she looked for it. When, however, she found it, she stopped looking. The neighbor [in Luke 11] didn't have any bread, so he knocked. When, however, the door was opened to him, and he received, he stopped knocking. The widow [in Luke 18] kept asking to be heard by the judge because she was not admitted. But when her suit was heard, she was silent. And so, there is a limit both to seeking, and to knocking, and to asking.⁹⁸

Tertullian's method, then, is to deny access to the scriptures for anyone who will not come to the scriptures already agreeing to the rule of faith. When heretics "use" the scriptures, they mutilate them by way of their very interaction, because any attempt at

⁹⁷ *Concerning Exemptions against Heretics* 11. PL 2.25a.

⁹⁸ *Perdiderat unam ex decem drachmis anus illa, et ideo quaerebat; ubi tamen invenit, quaerere desiit. Panem vicinus non habebat, et ideo pulsabat; ubi tamen apertum est ei, et accepit, pulsare cessavit. Vidua a iudice petebat audiri, quia non admittebatur; sed ubi audita est, hactenus institit. Adeo, finis est et quaerendi, et pulsandi, et petendi.* Tertullian, *Concerning Exemptions against Heretics* 11. PL 2.25a.

theological speculation beyond the “rule of faith” is itself heretical, no matter what the outcome.⁹⁹

This is the core of the distinction that I want to make between Tertullian’s “rule of faith (*regula fidei*)” and Irenaeus’s “rule of truth (κανὼν τῆς ἀληθείας),” or “doctrine of faith (πίστεως ὑπόθεσις).” Both Irenaeus and Tertullian would assent to the preceptual positions set forth in Tertullian’s *regula fidei*. Irenaeus, however, is willing to wrestle with heretics. For instance, he will take on heretics over the resurrection of the body, as he does in *Against Heresies* 5.31—convincing “evil exegetes” that their position is wrong because it is falsifiable within the framework of scripture. Tertullian, on the other hand, will not. Unless someone is willing to assent to the “rule of faith” that already answers the question of whether or not Christians are resurrected in bodily form, then wrestling with them over the interpretation of scripture is not just futile, it renders *both* parties heretics.

Truth is fractal for Irenaeus: it can be continually refined, further and further into the *minutae*, and even so it remains precisely the same.

Even when they are exceedingly eloquent, no one presiding over the churches will say anything different—for no “one is greater than the teacher.”¹⁰⁰ Nor will a poor speaker subtract from the tradition. Because the faith is fundamentally one and the same: neither can the one speaking at length add to it, nor can he saying little subtract from it. The fact that some know more and some know less on the basis of

⁹⁹ Dunn, “Tertullian's Scriptural Exegesis,” 147–151.

¹⁰⁰ This is a reference to the *Gospel according to Matthew* 10:24.

their skill does not occur because they change the doctrine itself.¹⁰¹

For Irenaeus, the true message remains the same even when messengers possess different levels of rhetorical ability and theological skill. But this does not mean that proper theological method cannot bring more to light than has already been revealed, as Tertullian asserts. You can get deeper than Tertullian's *regula fidei*, according to Irenaeus, and *this* is what leads to what appears to be different messages. These differences are not the result of a mutable truth, but because some undertake properly guided theological speculation, and arrive at new truths beyond the bare reading of scripture, and beyond the “doctrine of faith” that they received at baptism.

[Different expressions of the message] come about, however, by bringing out more fully the things said in parables, and reconciling it to the doctrine of faith (οἰκειοῦν τῇ τῆς πίστεως ὑποθέσει). And by detailing the activity and governance of god, which he established for the sake of human kind. And by making clear that God was long-suffering in regard to the angels who transgressed by rebellion, and in regard to the disobedience of men.¹⁰²

¹⁰¹ Irenaeus, *Against Heresies* 10.3–4. Καὶ οὔτε ὁ πάνυ δυνατὸς ἐν λόγῳ τῶν ἐν ταῖς ἐκκλησίαις προεστώτων, ἕτερα τούτων ἐρεῖ. οὐδεὶς γὰρ ὑπὲρ τὸν διδάσκαλον. οὔτε ὁ ἀσθενὴς ἐν τῷ λόγῳ ἐλαττώσει τὴν παράδοσιν. Μιᾶς γὰρ καὶ τῆς αὐτῆς πίστεως οὔσης, οὔτε ὁ πολὺ περὶ αὐτῆς δυνάμενος εἰπεῖν ἐπλεόνασεν, οὔτε ὁ τὸ ὀλίγον, ἡλαττόνησε. Τὸ δὲ πλεῖον ἢ ἐλαττον κατὰ σύνεσιν εἰδέναι τινὰς, οὐκ ἐν τῷ τὴν ὑπόθεσιν αὐτὴν ἀλλάσσειν γίνεται.

¹⁰² Irenaeus, *Against Heresies* 10.4. ἀλλὰ ἐν τῷ τὰ ὅσα ἐν παραβολαῖς εἴρηται

All of the verbs that Irenaeus uses are verbs of extrapolation—προσεπεργάζομαι, ἐκδιηγέομαι, σαφηνίζω. His list continues, detailing theological propositions that proper epistemic method, rooted in a novel hermeneutic, can successfully adjudicate. The “doctrine of faith” allows one to “search out (ἐξερευνᾶν)” the answer to “why God consigned all things to disobedience, in order that he may have mercy on all (διὰ τί συνέκλεισε πάντα εἰς ἀπειθειαν ὁ Θεός, ἵνα τοὺς πάντας ἐλεήσῃ),” as Paul says in *Romans* 11:32. Some things will remain a mystery, but many answers are available, even as the fundamental truth stays the same.

It was Irenaeus’s notion of epistemic possibility, and not Tertullian’s, that lived on. Irenaeus’s epistemology motivated disputants at the Council of Nicaea some 100 years later; everyone in attendance believed that the proper hermeneutic, applied to the right set of texts, could yield an abundance of theological truth beyond that which is stated plainly in the text of scripture. While all disputants would accept the *content* of Tertullian’s “rule of faith,” neither faction would agree with his epistemology. Put differently: Tertullian would be aghast to see the type of theological speculation engaged by Alexander, Arius, and their partisans in the beginning of the fourth century. He would call the whole lot “heretics” because they were asking questions beyond that which was revealed, and they

προσεπεργάζεσθαι, καὶ οἰκιοῦν τῇ τῆς πίστεως ὑποθέσει. καὶ ἐν τῷ τὴν τε πραγματείαν καὶ οἰκονομίαν τοῦ Θεοῦ, τὴν ἐπὶ τῇ ἀνθρωπότητι γενομένην, ἐκδιηγείσθαι. καὶ ὅτι ἐμακροθύμησεν ὁ Θεὸς ἐπὶ τε τῇ τῶν παραβεβηκότων ἀγγέλων ἀποστασίᾳ, καὶ ἐπὶ τῇ παρακοῇ τῶν ἀνθρώπων, σαφηνίζειν.

were looking to scriptural interpretation to adjudicate their preceptual differences.¹⁰³

Truth is not fractal, says Tertullian; a pox on both their houses. They were heretics the moment they stepped foot in the door.

Irenaeus argued that even when the truth is expounded, it is not changed. I turn now to *The Gospel of Truth*, which points to a secret teaching beyond the message preserved in scripture.¹⁰⁴ It is an oral teaching passed down from the apostles, and constitutes the “true gospel.” Importantly, this gospel is fundamentally a-textual. *The Gospel of Truth* witnesses no exegetical concerns whatsoever, and its author apparently conceived of a Christianity wholly removed from authoritative text.

The Gospel of Truth

The *Gospel of Truth* may seem to be the odd-source-out in my discussion of early Christian citational practices. It seems that way because it is. Of the eight traditions of Christian truth-making surveyed in this chapter, the *Gospel of Truth* is the only one for which no author is known or claimed.¹⁰⁵ If we did know the author, she or he would

¹⁰³ On Tertullian’s mistrust of typical hermeneutical strategies of his day, see R. P. C.

Hanson, “Notes on Tertullian’s Interpretation of Scripture,” 273–5.

¹⁰⁴ As Elaine Pagels argues in “How the Gospel of Truth Depicts Paul’s Secret Teaching: A Study in Second-Century Reception History” (*Journal of Early Christian Studies*, forthcoming), the “secret teaching” underlying *The Gospel of Truth* may be, or claim to be, the “secret teaching” that Paul alluded to in *1 Corinthians* 2:1–8.

¹⁰⁵ W. C. van Unnick is very confident in his hypothesis that “*The author of the Gospel of*

certainly not have made the cut for Jerome's famous catalogue *On Illustrious Men*, which is as good an indicator as any of the intellectual lineage claimed by Theodosian Age Nicene Christian scholars. The *Gospel of Truth* presents a conceptual counterpoint to Christian scholastic tradition claimed by the likes of Athanasius, Arius, or Constantine. It speaks to an ancient conception of Christianity wholly devoid of exegetical concerns. While the other case studies in this chapter index a wide variety of approaches to truth and its proper construction by early Christian scholars, each example nevertheless defines its own authority with reference to, and often by direct invocation of, authoritative texts. But these are only instances of one kind of Christianity: a Christianity predicated on the ability of text to possess authority. They speak to threads visible in the Christian epistemology that "won out," so to speak, but the imperial court's eventual embrace of Catholic orthodoxy was not historically necessary, nor is it obvious that a text *could* be imbued with meaning. One can easily imagine a non-textual Christianity spreading in the second and third centuries in the same way that an exegetically minded set of communities did. The *Gospel of Truth* reminds us that the decision to cite scripture is just that—a decision—and it already forecloses a wide variety of approaches to the creation of truth by ancient people equally as Christian as Ignatius, Tertullian, or Justin.

Truth was *Valentinus himself*." van Unnick, "The 'Gospel of Truth' and the New Testament'," 99. Emphasis original. But that was 1955. The best that one can say today is that the text *may* come from "Valentinian" Christian circles. For a defense of such a position see Einar Thomassen, *The Spiritual Seed*, 146–65; and Thomassen, "Notes pour la délimitation d'un corpus valentinien," 243–59.

Almost nothing certain is known about this text. It has been described as “a homiletic reflection of the ‘Gospel’ or the message of salvation provided by Jesus Christ,” though if it is a homily, it is a homily of a very different kind from any other known ancient example of the genre.¹⁰⁶ We know nothing about a community that might have held this text in regard, and nothing certain about the reaction of any ancient reader to its contents. The most that anyone can claim definitively is that this text appears to have been copied at a monastery in the fourth or fifth century, perhaps one that was part of the Pachomian network.¹⁰⁷ But neither ownership nor composition of a text suggests that the readers or writers considered the *Gospel of Truth* an authority. AJ Berkovitz and I have written elsewhere of the historiographical fallacy by which texts like the *Gospel of Truth* are supposed, *a priori*, to index rival Christianities that were subverted by an ascendant Orthodox church in the fourth and fifth centuries.¹⁰⁸ I will pass over, then, ongoing arguments as to whether this text is a work of “Valentinian” Christians or not, and whether it is coterminous with the “Gospel of Truth (*evangelium veritatis*)” mentioned by Irenaeus.¹⁰⁹ To date, all of the theories adduced on the authorship of this text, its ideological forebears, its social location, and even its title, fail by virtue of circularity and, at best, explain little about the context or content of the *Gospel of Truth*

¹⁰⁶ Harold W. Attridge and George W. MacRae, “The Gospel of Truth,” 67.

¹⁰⁷ On the monastic origins of the Nag Hammadi codices see Lundhaug and Jenott, *The Monastic Origins of the Nag Hammadi Codices*.

¹⁰⁸ Berkovitz and Letteney, “Authority in Contemporary Historiography,” 10–11.

¹⁰⁹ Irenaeus, *Against Heresies* 3.11.9.

itself.

My chief concern is to explore the text's epistemology: how it conceives of human access to truth. The *Gospel of Truth* is both centrally concerned with questions of truth—who can access it, what it entails, where it came from, and what its relationship is to other discourses of humans—and yet it cites no text,¹¹⁰ carries the name of no author, and claims to speak only to those who already know the message it conveys.¹¹¹ In this sense it is not wisdom literature, if wisdom literature is meant to impart wise words to those who are in need of instruction. It is something quite apart, and although it may reflect some literary relationship with the *Gospel according to John*, for instance, intertexts must be searched out in the gaps: nothing in the *Gospel of Truth* suggests that the text is presented as anything but a self-contained revelation.

The *Gospel of Truth* is called as such by modern scholars because of its incipit, which reads “The true message [or: Gospel of Truth] (πεγαγγελιον ν̄τμη) is joy for

¹¹⁰ See van Unnick, “...the *Gospel of Truth* never makes literal citations in the same way as do e.g. the so-called Apostolic fathers. Phrases such as: ‘the Lord says...’ or ‘as the Apostle teaches...’ are completely wanting. Also the treatise is wholly without historical references.” van Unnick, “The ‘Gospel of Truth’ and the New Testament,” 107.

¹¹¹ See van Unnick, “The writer is concerned not about words and thoughts but about the method in which God has brought the annihilation of this ἄγνοια to pass.” “The ‘Gospel of Truth’ and the New Testament,” 105–6.

those who have received grace from the Father of truth.”¹¹² By calling this literary production *The Gospel of Truth* we have already suggested what the referent is of the clause “The Gospel of Truth is joy”; it is the text that we are reading.¹¹³ But what follows explicitly, repeatedly disavows that truth could be found in a text, or that truth is even discoverable by anyone other than those who have been chosen to receive such knowledge. A better name for this text might be *About the True Message*; while this text points to “the true message,” it is not “the true message”—at least it doesn’t claim to be.¹¹⁴

¹¹² All translations of the *Gospel of Truth* are adapted from Attridge and McRae, “The Gospel of Truth,” and made with reference to additional textual notes of Kendrick Grobel, *The Gospel of Truth*.

¹¹³ Even the earliest commentators were careful to point out that *The Gospel of Truth* was not meant as a counter-gospel, but the association of the text *The Gospel of Truth* as the referent of “is joy” is assumed from Puech and Quispel onward. See, for instance, Cerfaux. “L’expression ‘Evangile de la Vérité’ doit s’entendre au sens de révélation de la vérité divine plutôt qu’en celui d’évangile ou message véritable, que Puech et Quispel prônaient d’abord. L’auteur ne fait pas allusion, croyons-nous, aux évangiles canoniques et il n’a aucune prétention à les remplacer par un cinquième évangile, pas plus que Paul, en écrivant l’Epître aux Romains pour développer le thème d’un ‘évangile de la justice’, n’a envie d’imiter les récits de la vie de Jésus.” Cerfaux, “De Saint Paul à ‘L’Évangile de la Vérité,’” 103.

¹¹⁴ This point was made first by Hans Jonas, and reiterated by Benoit Standaert, but their

The Gospel of Truth/About the True Message begins with a prologue followed by a story: a return to the beginning, before creation. The story goes like this: “the Totality (πτηρῳ) went out searching for the one from whom they had come forth.”¹¹⁵ Succumbing to fear because it could not find the Father, the Totality gave rise to Error (πλᾶνῃ), which became powerful because it did not know the truth. With this new-found power, Error “set about with a creation,” (that is the world as known by and to humans) and offered

warnings do not seem to have been particularly effective. “...it is to be noted that the work, while speaking a great deal about the *Evangelium*, does not in fact call itself *evangelium*. And in view of what the author has to say about the Gnosis of the Living Book—its consisting not of vowels and consonants, etc. (23,3 ff.),—it is questionable whether he could have conceded to any book in human language, his own included, the honour of being the Gospel of Truth.” Jonas, “*Evangelium Veritatis*,” 97.

“L’expression dans le contexte du début de L’Evangile [sic] ne manque pas d’être signifiante, *mais le sens exclue justement qu’elle ait pu désigner l’oeuvre elle-même dans la pensée de l’auteur.*” Standaert, “‘*Evangelium Veritatis*’ et ‘*Veritatis Evangelium*’,” 147. Emphasis mine. Jonas suggested that the “original” title may have been Περὶ τοῦ Εὐαγγελίου τῆς Ἀληθείας. (op. cit. 97), and while his suggestion is close to my proposed appellation, I am not convinced that the text had a title in antiquity, as such. None of the canonical gospels in the second century had “titles” either, even for Irenaeus. See Standaert, op. cit., 138–41; and Larsen, “Correcting the Gospel: Putting the titles of the gospels in historical context,” 89–94.

¹¹⁵ 17.5–6

“power and beauty” as a “substitute for truth.”¹¹⁶ The text goes on to offer its first adjuration, one of many which are motivated by a central cosmological epistemology: everything that is made, is made by Error. “For this reason despise error.”¹¹⁷ *About the True Message* argues that knowledge¹¹⁸ came into the world through the agency of Jesus,¹¹⁹ and that Jesus offers knowledge of the Father only to those who are pre-ordained to receive the truth: those whose names¹²⁰ are “in the living book of the living—the one

¹¹⁶ ἄσῳῳπε ῥηη οὐπλασμά ἐσῳῳτε ῥῆ τῳῳμ. ῥῆ οὐμῆτῳῳε ῆτῳῳῳῳ ῆτῳῳῳῳῳ.

17.18–20.

¹¹⁷ ἔτῳε πεῳε κατῳφροῆ ῆτῳῳῳῳ. 17.28–9.

¹¹⁸ “Knowledge” is πῳῳῳῳ in this text, a derivation of ῳῳῳῳ with a semantic range equivalent to that of ἐπιστήμη.

¹¹⁹ “Jesus the Christ enlightened those who were in darkness through oblivion. He enlightened them; he showed a way, and the way is the truth which he taught them.

(ἡ(ῳῳῳ)ῳ πεῳῳ(ἰῳῳ)ῳ πεῳε ἄῳῳ ῥῆτῳῳῳῳ ἄῳῳ ὀῳῳῳ ἄῳῳῳῳ ῆῳῳ πεῳε ἄῳῳ ῥῆτῳῳῳῳ

ῆτῳῳῳῳ. ἄῳῳ ὀῳῳῳ ἄῳῳ ἄῳῳ ῆῳῳῳῳῳ πῳῳῳῳ ῆῳῳ πε ῳῳῳῳῳ ἔῳῳῳῳῳῳ

ἄῳῳ.) 18.16–21

¹²⁰ “Those whose name he knew in advance were called at the end, so that one who has knowledge is the one whose name the father has uttered. For he whose name has not

been spoken is ignorant (ῆῳῳ ῆῳῳῳῳ ῳῳῳῳ ῆῳῳῳῳ ῆῳῳῳῳ ἄῳῳ ἄῳῳῳῳ ἄῳῳ

ῥῳῳ ὀῳῳῳ ἔῳῳῳῳῳ ῆῳῳῳ πε ῆῳῳῳῳῳῳ ῆῳῳῳῳῳ ῆῳῳ πῳῳῳ. πεῳῳῳῳῳῳῳ ῳῳ

written in the thought and the mind of the father...that (book) which no one [but Jesus] was able to take.”¹²¹

This, then, is the core of the epistemic system that undergirds *About the True Message*: the “true message” is available only to those to whom it has been given; “the living who are inscribed in the book of the living” are given instruction “about themselves.”¹²² The text describes this return to knowledge in a series of arresting poetic images that resonate even today. Those who are given knowledge grasp the truth as “one who having become drunk has turned away from his drunkenness, and having returned to himself, has set right what are his own.”¹²³ As in Seneca’s Stoicism, cosmology, epistemology, and ethics are radically coherent in *About the True Message*; the system is self-referential, and preceptual knowledge is useless without a correlative epistemic outlook.

About the True Message goes out of its way to clarify that this knowledge is not textual. While textualized metaphors are used,¹²⁴ the content of the “true message” cannot be bound in language.

This is the knowledge of the living book which he revealed to the aeons, at the

ἡπερ ἐν φρεὶ πατρὸς γένηται.” 21.25–31.

¹²¹ 19.34–20.6

¹²² 21.4–5

¹²³ 22.16–20

¹²⁴ For instance 19.35 “book (βιβλίον) of the living,” 20.15 “a will (διαθήκη),” 20.26

“the edict (δικταγμα) of the Father.”

end, as [his letters], revealing how they are not vowels nor are they consonants, so that one might read them and think of something foolish, but they are letters of the truth which they alone speak who know them. Each letter is a complete <thought> like a complete book, since they are letters written by the Unity, the Father having written them for the aeons in order that by the means of his letters they should know the Father.¹²⁵

Here the author uses playful, textualizing metaphors stress precisely that no text could possibly contain truth. The “knowledge of the living book” may refer either to Truth itself, or to the names of those selected to know the truth. In either case, the knowledge itself is “neither vowels nor consonants”¹²⁶—it cannot be contained in textualized form, nor spoken in audible words. *About the True Message* has remarkably little to say positively about either preceptual truths or how one gains access to the “true message” itself. The message of Truth, it stresses repeatedly, is known only to those who have been elected. The text is clearest only in a negative sense: books do not contain truth. The epistemic corollary to texts as repositories of truth, (that the proper hermeneutic, applied to the right corpus of texts, could produce theologically defensible statements) is ruled out from the start.¹²⁷

¹²⁵ 22.38–23.18

¹²⁶ Literally, “they are not places of sound nor are they letters lacking their sounds

(ἐξῆστοπος ἐν νε ᾗτε ἡνιμὴ οὐδὲ ἡνιζέει ἐν νε ἐϋδαατ ἡνοῦρπαυ).” 23.3–5

¹²⁷ Compare with the viewpoint of the *Gospel according to Philip* in Nag Hammadi codex 2, which allows that Truth cannot be understood by humans outside of “types and

In this sense, *About the True Message* forms an almost perfect contrast both with the traditions discussed in this chapter, as well as with another text known from Nag Hammadi: the so-called *Gospel of the Egyptians*, written originally in Greek and preserved in two different versions in Codices 3 and 4.¹²⁸ Quite apart from *About the True Message*'s self-effacing textualizing metaphors, the *Gospel of the Egyptians* ends by declaring that the text was written by Seth himself in primordial times—literally “in letters” (γενεῶν 3.68.11)—“...in order that, at the end of the times and the eras...it may come forth and reveal this incorruptible, holy race of the great savior.”¹²⁹ Here, *The Gospel of the Egyptians* presents the preceptual knowledge which “comes forth” as that

images,” but nevertheless holds out some hope for the interpretation of those images as a manner of attaining the Truth that lies behind them. “Truth did not come into the world naked, but it came in types and images. The world will not receive truth in any other way (ταληθῆς ἡπίεσεν ἐπὶ κόσμος ἐσκακαμένην ἀλλὰ ἵσταται ἐν ἑστύπῳ μὴ ἡρίκων φησὶν ἂν' ἡκέρητε).”

¹²⁸ The title derives from Jean Doresse's description in “Trois livres gnostiques inédits.”

The original title of the tractate appears in the explicit of the version in Codex 3—“The holy book of the great and invisible spirit.” (τῷ βιβλῳ τοῦ μεγάλου καὶ ἀφανοῦς ἡπνεύματος) For a discussion of the title see Alexander Böhlting, Frederik Wisse, and Pahor Labib (eds.), *Nag Hammadi codices III, 2 and IV, 2: the Gospel of the Egyptians*, 18–23.

¹²⁹ 3.68.14–22. Translation Böhlting, Wisse, and Labib.

knowledge stored away in letters written by Seth, similar to the antediluvian Sethian knowledge that is recorded in Nag Hammadi's *The Three Steles of Seth*. In other words, a rejection of textualized, universal knowledge is not fundamentally "gnostic," nor is it found throughout the Nag Hammadi codices.¹³⁰ But it is visible in bits and pieces, and represents a Christian epistemic tradition just as sophisticated as anything in Tertullian or Irenaeus.

It is not clear whether *About the True Message* constituted "scripture" for any community in antiquity. The text is self-effacing; it stresses over and again that Truth is not so impotent as to require the written word, and that no language has the power necessary to express truth, let alone convey its meaning to those who do not have it already. The text does not engage in a mere apophaticism, in which the mystery of truth will always outstrip any description. Nor does it express a negative theology, in which only statements about falsity can be made with confidence.¹³¹ It is, rather, an epistemic

¹³⁰ Pace Einar Thomassen, "Revelation as Book and Book as Revelation," who reads

About the True Message both as a "gnostic" text among others in a definable group, and one whose epistemic corollaries are other texts from Nag Hammadi, like the *Gospel of the Egyptians*, *The Three Steles of Seth*, and the *Hymn of the Pearl*.

Thomassen mistakes textualizing metaphors in *About the True Message* for a textually grounded epistemology, which the text explicitly (though apparently subtly) rejects.

¹³¹ It is not a precursor to the late ancient theological outlook attached to the name of Dionysus the Areopagite, for instance.

system that purposefully (and perhaps polemically, but certainly thoroughly) repudiates the idea that a book could reveal knowledge that is anything more than an emanation of Error. As I move on to discuss other Christian epistemic systems, it will be important to keep in mind that the seeming inevitability of textual interpretation, even among Christians, is a mirage; the great doctrinal controversies of the fourth and fifth centuries played out on a field of Orthodox construction. The fact of textual interpretation as epistemically foundational is neither obvious, nor uncontroversial—even among Jerome’s “illustrious men.” Nor was it universal, as we see in the system of knowledge supposed and promulgated by *About the True Message*.

A misplaced textualism runs through the history of scholarship on *About the True Message*. Geoffrey Smith cites ten separate studies considering what he calls the text’s “unwavering commitment to biblical interpretation,” to which we can add Smith’s own article as well.¹³² There is at least one problem with this characterization of *About the True Message*, however. In regards to biblical interpretation, this text is neither. Put differently, if “biblical interpretation” is to remain a category of critical use whatsoever, we must say that *About the True Message* does none of it.

There are no citation formulae. There are no quotations. There is no discussion of written authority. There are, at best, allusions to topics, words, and concepts that are also discussed in scriptural texts.¹³³ But it would be difficult to discuss the generation of the

¹³² Smith, “Constructing a Christian Universe,” 67. The studies are catalogued in 67n9.

¹³³ As one of the earliest commentators put it, “...the author made use of the Books [sic] of the New Testament, but in a way suited to his own ‘eloquence’, i.e. by working

Son as Platonic *logos*, for instance, without language that sounds like the *Gospel According to John* 1:1 and 1:18. Likewise, the relationship of a personified Error to its source, framed in almost any way, will look like an oblique reference to *Ben Sira* 24:3 to any sufficiently motivated critic. There may be “scriptural resonances” in *About the True Message*, and the text as we have it might be a meditation on texts that would eventually become part of the Orthodox Christian canon.¹³⁴ In other words, it might engage in allusion as defined by Devorah Dimant: “a device for the simultaneous activation of two texts.”¹³⁵

over them and introducing ‘echoes’ of their content. In the cultured world of those days a good style required the employment of reminiscences of well-known authors in the arguments, without express quotation. The practised ear of the educated hearer would recognize these as a matter of course.” van Unnick, “The ‘Gospel of Truth’ and the New Testament,” 107.

¹³⁴ There is even a place where *About the True Message* appears to be familiar with a story known from canonical gospel texts: the story of “the shepherd who left behind the ninety-nine” to search for the one who is lost. The story is known from *The Gospel according to Matthew* 18:12–14, but there is no reason to think that the texts have a literary relationship. Even a commentator like Kendrick Grobel, who is insistent on the idea of New Testament interpretation as a central feature of *About the True Message*, calls the suggestion that this is an explicit invocation of the Matthean story “queer ‘exegesis.’” Groebel, *The Gospel of Truth*, 129.

¹³⁵ Devorah Dimant, “Use and Interpretation of Mikra in the Apocrypha and

However, if similar language, or even purposeful allusion to a biblical text constitutes “an unwavering commitment to biblical interpretation”¹³⁶ even in the absence of an epistemology in which authoritative knowledge *could* be found in a text, then the concept of “biblical interpretation” has lost all utility as a scholarly tool. If “biblical interpretation” means simply that a text uses biblical language, we have already allotted a linguistic primacy to the bible which can only be defended on theological grounds. Further, we have emulsified our sources such that every text, no matter what its generative epistemology, necessarily interprets biblical text if the text has anything to say about Jesus. This would be an absurd position to take, of course. Whatever it is that *About the True Gospel* is doing—even if there are purposeful biblical allusions, invocations, or resonances strewn throughout the text—it is a far cry from what Irenaeus means by “biblical interpretation,” or from the operations that Athanasius performs in reading New Testament texts as an anti-Arian cudgel.

The only thing that can be said with certainty concerning *About the True Message* is that a Christian community in Egypt was interested in preserving it in the fourth or fifth century. This is especially intriguing because known Christian communities in late ancient Egypt were, so far as we can tell, more or less uniformly interested in scriptural exegesis, and in textualized forms of truth production. *About the True Message* stands in stark contrast, and appears to be inexplicable within a late ancient Egyptian Christian context. And yet, there it was: preaching a message of epistemic certainty that text is no

Pseudepigrapha,” 410.

¹³⁶ Smith, “Constructing a Christian Universe,” 67.

container for truth, and espousing an epistemic position that explains in simple terms why it cites no text, carries the name of no author, and appears as a wholly self-contained revelation that is, nevertheless, *not* Truth.

Conclusion

Marcellus's error, with which this chapter began, was epistemic. He failed to understand the Roman augur's methods, and therefore his proposed temple was religiously unacceptable because he did not distinguish between the preceptual truths which he knew—that gods sent signs—and the epistemic truths by which such auguries were identified.

Some of the authors investigated in this chapter, like Irenaeus and Tertullian, held to remarkably similar theological precepts even when their opinions differed dramatically about *why* such precepts were true. With the addition of Justin, these three authors found authoritative text to be a useful ally in making theological arguments, while Ignatius and the author of *About the True Message* rejected the idea that textual interpretation could serve as a vector for the production of reliable knowledge. Of those surveyed who reject scriptural interpretation as a central locus of truth production, only the author of *About the True Message/The Gospel of Truth* was omitted from Jerome's late fourth century catalogue of influential Christian men.

I have argued throughout my survey of second and third century Christian sources that, in the period before the Nicene controversy, those calling themselves "Orthodox" (ὀρθόδοξος) distinguished between correct and heretical theologies on the basis of preceptual (δοξαστικός) knowledge. Jerome's list of "illustrious men" who contributed to

the Orthodox patrimony demonstrates that even in the waning years of the fourth century, epistemic diversity among “Orthodox” fathers was acceptable, at least in the years before the Nicene controversy. In his biography of Ignatius, for instance, Jerome pointedly demonstrates knowledge of the bishop’s letters themselves, rather than just stories about the martyr.¹³⁷ But he offers no methodological censure of Ignatius, even though he knew Ignatius’s rejection of scriptural interpretation, and even though he quite willingly criticized illustrious men like Tertullian for theological, preceptual lapses.¹³⁸

I turn now to the Nicene controversy, in which the underdetermined nature of scripture led to a schism among Christians that called themselves Orthodox (and Catholic). In response to the crisis, Christian scholars came up with new ways of making arguments, and over the course of a generation came to define Orthodoxy in a more expansive manner. Scholars like Athanasius redefined Orthodoxy not only as a series of preceptual truths, but as a set of preceptual truths arrived at through a newly articulated epistemic framework. It was not enough to arrive at common precepts by way of different methods, as Irenaeus and Tertullian had done many generations before. Diversity of method came to the fore as a theological problem among Catholic Christians. Chapter four describes the redefinition of Orthodoxy to include both preceptual and epistemic knowledge.

¹³⁷ Jerome, *On Illustrious Men* 16.

¹³⁸ Jerome notes that in mid-life, Tertullian “had fallen into Montanism (*ad Montani dogma delapsus*)” and that “he wrote books against the church.” Jerome, *On Illustrious Men* 53. *PL* 23.698B.

Chapter 4—The Epistemic Revolution of the Fourth Century

Constantine's Epistemology: Universality through Unity

Constantine was obsessed with unity. We know this because of his guiding hand in adjudicating the Nicene controversy, and letters from the emperor to his subordinates trying to diffuse an increasingly tense battle of minds and wills.¹ But Constantine's concern with unity was epistemic, rather than preceptual. The first Christian emperor was ultimately unconcerned with the subject upon which his subordinates agreed, as I argue below. Rather, he was interested chiefly in the fact of their agreement,² and the relationship between intellectual unity and the bestowal of divine favor on the empire.³

¹ The sources are mostly preserved in Eusebius's *The Life of Constantine* and

Athanasius's *Concerning the Pronouncements of the Council of Nicaea*, though a few letters are available only or additionally in the fifth century historical productions of Socrates, Sozomen, and Gelasius of Cyzicus.

² This point is famously uncontroversial. "...Constantine's reaction to the pious mouthings of Acesius is consistent with the position he took during a string of clashes with Donatist rigorists, unyielding Arian theologians, and purist Nicene fathers. In all of these situations, Constantine favored not only peace and harmony, but also inclusiveness and flexibility. Such a conclusion is not likely to generate much argument, Constantine's commitment to unity in the church being one policy on which virtually all parties agree." Drake, "Constantine and Consensus," 5.

³ Noel Lenski's *Constantine and the Cities* introduces a useful heuristic for thinking about

Chapter 4: Epistemic Revolution

In the early years of the Nicene controversy, Constantine wrote a letter to its two central disputants: an Alexandrian presbyter named Arius, and Alexander, the metropolitan bishop of Alexandria.

Oh glorious and godly Providence! How deadly a wound my ears suffered, or rather my very heart, for the information that the division originating among you was much graver than those I had left behind there,⁴ so that your regions, from which I had hoped medicine would be supplied to others, were now in greater need of healing. As I considered the origin and occasion for these things, the cause was exposed as *extremely trivial and quite unworthy of so much controversy* (ἀγαν εὐτελὴς καὶ οὐδαμῶς ἀξία τῆς τοσαύτης φιλονεικίας ἢ πρόφασις ἐφωράθη). Being driven therefore to the need for this letter, and addressing myself to that discretion which you have in common, and calling first on the divine Providence to support my action, I offer my modest services as a peaceful arbitrator between you in your dispute.⁵

Constantine's life, by distinguishing between developing facets of his self-presentation and life-long convictions. One of his life-long convictions was a procedural and epistemic framework that stresses a connection between doctrinal unity, proper cult, and state prosperity. Lenski, *Constantine and the Cities*, 28–66.

⁴ Here Constantine alludes obliquely to the “Donatist controversy.”

⁵ Ἄλλ', ὃ καλλίστη καὶ θεία πρόνοια, οἷόν μου τῆς ἀκοῆς μᾶλλον δὲ τῆς καρδίας αὐτῆς τραῦμα καίριον ἦψατο, πολλῶ χαλεπωτέραν τῶν ἐκεῖ καταλειφθέντων τὴν ἐν ὑμῖν γιγνομένην διχοστασίαν σημαῖνον, ὥς πλείονος ἤδη τὰ καθ' ὑμᾶς μέρη θεραπείας

As will become clear, Constantine took his role as mediator seriously. In this letter, dated to 324⁶ (and thus immediately before the Council of Nicaea was convened), the emperor stakes out his initial position on the question that Arius and Alexander disputed, and which they had formed intellectual alliances to defend.⁷ To Constantine, the question was

δεῖσθαι, παρ' ὧν τοῖς ἄλλοις τὴν ἴασιν ὑπάρξειν ἤλπισα. διαλογιζομένῳ δὴ μοι τὴν ἀρχὴν καὶ τὴν ὑπόθεσιν τούτων ἄγαν εὐτελὲς καὶ οὐδαμῶς ἀξία τῆς τοσαύτης φιλονεικίας ἢ πρόφασις ἐφωράθη. διόπερ ἐπὶ τὴν τῆς ἐπιστολῆς ταύτης ἀνάγκην ἐπειχθεὶς, καὶ πρὸς τὴν ὁμόψυχον ὑμῶν ἀγχίνουσαν γράφων, τὴν τε θεῖαν πρόνοιαν καλέσας ἀρωγὸν τῷ πράγματι, μέσον τῆς πρὸς ἀλλήλους ὑμῶν ἀμφισβητήσεως οἶον εἰρήνης πρύτανιν ἐμαυτὸν εἰκότως προσάγω. Preserved in Eusebius *Life of Constantine* 2.68. (Also extant in Socrates *Ecclesiastical History* 1.7, and Gelasius, *Ecclesiastical History* 2.4) Translations of the *Life of Constantine* are adapted from Cameron and Hall (trans.), *Eusebius: Life of Constantine*. Text GCS 7. Emphasis mine.

⁶The precise date of these letters is disputed. Here and elsewhere I have used the traditional dates assigned by Opitz in *AW*. Sara Parvis has re-dated (though-not systematically) the “flurry of letters” (72) surrounding the Council of Nicaea, in some instances changing the order suggested by Opitz and in most cases simply suggesting a later date, closer to the council. For my purposes the precise date and order of these sources is irrelevant. See Sarah Parvis, *Marcellus of Ancyra*, 72–83.

⁷On the formation of alliances in the lead-up to the council, and the known members of each side, see Parvis, *Marcellus of Ancyra*, 39–68.

inane—asked out of foolishness, and answered in haste. “Now forgive one another for both the careless question and the ill-considered answer,” orders Constantine, and let the clergy behave as a philosophical school.

So that I may bring to the attention of your judgment a little paradigm: you obviously know that the philosophers themselves agree together on one set of principles (ὥς ἐνὶ μὲν ἅπαντες δόγματι συντίθενται), though often when they disagree in a portion of their opinions (πολλάκις δὲ ἐπειδὴν ἔν τινι τῶν ἀποφάσεων μέρει διαφωνῶσιν). And although they are separated in their learned skill (τῇ τῆς ἐπιστήμης ἀρετῇ χωρίζονται), yet they agree together again in unity when it comes to basic principle (τοῦ δόγματος). If this is so, isn’t it much more right that we, who are the appointed servants of the great God (τοὺς τοῦ μεγάλου θεοῦ θεράποντας καθεστῶτας) should, in a religious commitment of this kind, be of one mind with each other (ὁμοψύχους ἀλλήλοις εἶναι)?⁸

⁸ἵνα δὲ μικρῷ παραδείγματι τὴν ὑμετέραν σύνεσιν ὑπομνήσαιμι, ἵστε δήπου καὶ τοὺς φιλοσόφους αὐτοὺς ὥς ἐνὶ μὲν ἅπαντες δόγματι συντίθενται, πολλάκις δὲ ἐπειδὴν ἔν τινι τῶν ἀποφάσεων μέρει διαφωνῶσιν, εἰ καὶ τῇ τῆς ἐπιστήμης ἀρετῇ χωρίζονται, τῇ μέντοι τοῦ δόγματος ἐνώσει πάλιν εἰς ἀλλήλους συμπνέουσιν. εἰ δὴ τοῦτό ἐστι, πῶς οὐ πολλῷ δικαιότερον ἡμᾶς τοὺς τοῦ μεγάλου θεοῦ θεράποντας καθεστῶτας ἐν τοιαύτῃ προαιρέσει θρησκείας ὁμοψύχους ἀλλήλοις εἶναι; Preserved in Eusebius, *Life of Constantine* 2.71. Compare Edward Gibbon, writing on the Arian controversy: “Where the subject lies so far beyond our reach, the difference between the highest and the lowest of human understandings may indeed be calculated as infinitely small;

The emperor made clear that there was no discernible difference between Arius and Alexander regarding matters of cultic import, and thus ordered them to reestablish communion.⁹ Constantine held that as long as divergent theological viewpoints were justifiable under the umbrella of Orthodoxy, they are to be tolerated by the clerical elite. This is a position from which Constantine did not sway, even as he ordered the banishment of Arius and two members of his party less than a year later.

The emperor's fragmentary letter to the church at Nicomedia sounds like an abrupt departure from the conciliatory tone taken in the previous letter to Arius and Alexander, though I argue that it demonstrates a startling unity of vision.

A council took place at the city of Nicaea, you will remember, at which I myself was present, as befit my conscience. Desiring nothing other than to establish complete unity (ὁμόνοιαν ἅπασιν), and above all to scrutinize and ultimately dispense with this matter which was conceived through the madness of Arius the

yet the degree of weakness may perhaps be measured by the degree of obstinacy and dogmatic confidence." *The History of the Decline and Fall of the Roman Empire*, 3.27.

⁹"For the impulse of your quarrel did not arise over the chief point of the precepts in the law (ἐν τῷ νόμῳ παραγγελμάτων), nor are you faced with the intrusion of a new doctrine concerning the worship of God (τοῦ θεοῦ θρησκείας αἵρεσις), but you have one and the same mind (ἓνα καὶ τὸν αὐτὸν ἔχετε λογισμόν), so that you should be able to come together in communion of fellowship." Preserved in Eusebius, *Life of Constantine* 2.70.

Alexandrian, but quickly gained traction by the outrageous and ruinous diligence of Eusebius [of Nicomedia].¹⁰

This letter appears to present a stark divergence from the letter of Constantine above, where he urged the disputing factions to set aside their differences for the good of the community because their differences were neither cultically actionable nor, to his mind, particularly interesting. The question of the precise relationship of the Son to the Father, adjudicated in excruciating detail at the council under Constantine's own aegis, was "a careless question" that elicited "an ill-considered answer."

How can it be that Constantine appears to have changed his mind so drastically on the substance of the question, while remaining convinced that his actions aimed only at unity in the church? On a cursory reading it might appear that Constantine's rhetoric is expedient and duplicitous: he has sided with the "winners" of the Council. But this answer is too easy, and it fails to account for the fact of the Council of Nicaea itself. Before the Council of Arles in 314 that was similarly called by Constantine, there was no

¹⁰ μέμνηται ἡ ὑμετέρα ἀνεξικακία ἐπὶ τῆς Νικαέων πόλεως γεγενῆσθαι σύνοδον, ἣ καὶ αὐτὸς ἐγὼ πρεπόντως τῇ τῆς ἐμῆς συνειδήσεως λατρεία παρήμην, οὐδὲν ἕτερον βουλόμενος ἢ ὁμόνοιαν ἅπασιν ἐργάσασθαι καὶ πρὸ πάντων ἐλέγξει τε καὶ ἀποσείσασθαι τὸ πρᾶγμα τοῦτο, ὃ τὴν μὲν ἀρχὴν εἰλήφει διὰ τῆς Ἀρείου τοῦ Ἀλεξανδρέως ἀπονοίας, ἰσχυροποιεῖτο δὲ παραχρῆμα διὰ τῆς Εὐσεβίου ἀτόπου τε καὶ ὀλεθρίας σπουδῆς. *Urk.* 27.13. Preserved in Athanasius, *Concerning the Pronouncements of the Council of Nicaea* 41.13. (Extant also in Gelasius *Ecclesiastical History* 3 and Theodoret *Ecclesiastical History* 1.20.)

precedent for imperially sanctioned meetings whose aim is to hammer out theological points and arrive at a state of unity.¹¹ There is no reason to think that the pronouncements of ecclesiastical councils would have come to represent the primary node of authority within later Christian theological disputation without Constantine's own initiative.¹² Rather, it was Constantine's life-long obsession with unity that led his calling for councils in the first place.¹³ We cannot then say that his seeming "change of position" relies on the authority of the Council of Nicaea—the authority of the council itself is vouchsafed by Constantine's patronage and sanction, a patronage and sanction borne of

¹¹ It is unlikely that Constantine attended this council, despite the assertion of Barnes, *Constantine and Eusebius*, 59; or Edwards' hopeful reading of the *Life of Constantine* 1.44 (along with Mark Edwards' similar supposition in *Optatus*, 188n18). As Pottenger notes, "...even if Constantine did not attend Arles, the unprecedented step of a church council summoned by an emperor (as opposed to a judicial hearing overseen by a panel of bishops) nevertheless represented his greater degree of involvement. In any case, he took no active role in the Council itself." Pottenger, "Developing Imperial Doctrines," 75.

¹² On the importation of theological dispute into the realm of Roman civil law under Constantine, see Lenski, "Constantine and the Donatists," 104–9; and Calderone, *Costantino e il Cattolicesimo*, 321–249.

¹³ "The consistency in Constantine's policies had been not doctrines, but the dream of political and religious unity." Raymond Van Dam, *The Roman Revolution of Constantine*, 281.

his singular concern for unity regardless of the particular, preceptual content of that singular faith.

By his own omission, the emperor's obsession with ecclesial unity overlies a traditional Roman concern for the "peace of the gods (*pax deorum*)"; human beings please the gods under the direction of the emperor, and the gods bestow gifts upon the empire in return. When Constantine called for unity among the Catholic community, he did not invoke some internal theological need as a justification. Rather, he warned that internal dissension may lead the Christian god to withhold favor from his reign.¹⁴ His letter to Alexander and Arius quoted above, composed on the eve of the Council of Nicaea, begins as follows:

Conqueror Constantinus Maximus Augustus to Alexander and Arius. I call god himself to witness, as I should, the helper in my undertakings and savior of the universe, that a twofold purpose impelled me to undertake the duty which I have performed. My first concern was that the attitude towards the divinity of all the provinces should be united in one consistent view (Πρῶτον μὲν γὰρ τὴν ἀπάντων τῶν ἐθνῶν περὶ τὸ θεῖον πρόθεσιν εἰς μίαν ἔξωθεν σύστασιν ἐνῶσαι), and my second that I might restore and heal the body of the republic which lay severely wounded. In making provision for these objects, I began to think out the former

¹⁴ On Constantine's similar concern regarding the Donatist schism, see Andrew J.

Pottenger, "Developing Imperial Doctrines of Power," 68–73. "...it was Constantine's priority of maintaining divine favour that made unity so significant for the emperor." (73)

with the hidden eye of reason, and I tried to rectify the latter by the power of the military arm. I knew that if I were to establish a general concord (ὁμόνοιαν καταστήσαιμι) among the servants of god (ἅπασι τοῖς τοῦ θεοῦ θεράπουσιν) in accordance with my prayers, the course of public affairs (ἡ τῶν δημοσίων πραγμάτων) would also enjoy the change consonant with the pious desires of all.¹⁵

Here Constantine claims two interrelated purposes: the unity of doctrine, and the prosperity of the empire. The two are not separate issues, he clarifies, but are opposite sides of the same coin: only doctrinal unity guarantees divine favor—the divine favor that undergirded his own claim to imperial authority, as it had for his Tetrarchic

¹⁵ Νικητῆς Κωνσταντῖνος Μέγιστος Σεβαστὸς Ἀλεξάνδρῳ καὶ Ἀρείῳ. Διπλὴν μοι γεγενῆσθαι πρόφασιν τούτων, ὧν ἔργῳ τὴν χρεῖαν ὑπέστην, αὐτὸν ὡς εἰκὸς τὸν τῶν ἐμῶν ἐγχειρημάτων βοηθὸν καὶ σωτῆρα τῶν ὅλων θεὸν ποιοῦμαι μάρτυρα. Πρῶτον μὲν γὰρ τὴν ἀπάντων τῶν ἐθνῶν περὶ τὸ θεῖον πρόθεσιν εἰς μίαν ἕξεως σύστασιν ἐνῶσαι, δεύτερον δὲ τὸ τῆς κοινῆς οἰκουμένης σῶμα καθάπερ χαλεπῷ τινι τραύματι πεπονηκὸς ἀνακτήσασθαι καὶ συναρμόσαι προϋθυμήθην. ἃ δὲ προσκοπῶν ἕτερον μὲν ἀπορρήτῳ τῆς διανοίας ὀφθαλμῷ συνελογιζόμεν, ἕτερον δὲ τῇ τῆς στρατιωτικῆς χειρὸς ἐξουσίᾳ κατορθοῦν ἐπειρώμεν, εἰδὼς ὡς εἰ κοινὴν ἅπασι τοῖς τοῦ θεοῦ θεράπουσιν ἐπ' εὐχαῖς ταῖς ἐμαῖς ὁμόνοιαν καταστήσαιμι, καὶ ἡ τῶν δημοσίων πραγμάτων χρεῖα σύνδρομον ταῖς ἀπάντων εὐσεβέσι γνώμαις. Preserved in Eusebius, *Life of Constantine* 2.64–5.

predecessors.¹⁶ He expressed the same purpose in a general letter to Catholic communities written just a few days after the Council of Nicaea's close.

Constantine Augustus, to the churches. Having learned from experience of the prosperity of public affairs how great is the grace of the divine power, I have judged it appropriate for me that my aim before all else should be that among the most blessed congregations of the universal church (τοῖς μακαριωτάτοις τῆς καθολικῆς ἐκκλησίας πλήθεσι) a single faith and a pure love and a religion that is unanimous about almighty god be observed (πίστις μία καὶ εὐλικρινὴς ἀγάπη ὁμογνώμων τε περὶ τὸν παγκρατὴ θεὸν εὐσέβεια τηρῆται). This, however, could not achieve an irreversible and secure settlement unless, after all or the great majority of the bishops had gathered in the same place, a decision were taken upon each of the points affecting the most holy religion. For this reason when most had been assembled, and I myself as one of you was also among those present (for I would not wish to deny that in which I most delight, that I am your fellow-servant), all topics were subject to proper discussion until the point was reached where the doctrine pleasing to the all-seeing god of all was brought to light as the basis for unanimous agreement (πρὸς τὴν τῆς ἐνότητος συμφωνίαν εἰς φῶς προήχθη), so that nothing remained to cause further difference of opinion or dispute about faith (ὥς μηδὲν ἔτι πρὸς διχόνοιαν ἢ πίστεως ἀμφισβήτησιν ὑπολείπεσθαι).¹⁷

¹⁶ Raymond Van Dam, *The Roman Revolution of Constantine*, 230–4.

¹⁷ Κωνσταντῖνος Σεβαστὸς ταῖς ἐκκλησίαις. Πεῖραν λαβὼν ἐκ τῆς τῶν κοινῶν εὐπραξίας,

Here Constantine shows that his concern for doctrinal unity is not preceptual: he didn't much care what it was that the bishops agreed upon, at least notionally.¹⁸ Rather, his concern for universal doctrinal assent is epistemic. The reason for unity is that unity

ὅση τῆς θείας δυνάμεως πέφυκε χάρις, τοῦτόν γε πρὸ πάντων ἔκρινα εἶναί μοι
προσῆκειν σκοπόν, ὅπως παρὰ τοῖς μακαριωτάτοις τῆς καθολικῆς ἐκκλησίας πλήθεσι
πίστις μία καὶ εἰλικρινὴς ἀγάπη ὁμογνῶμων τε περὶ τὸν παγκρατῆ θεὸν εὐσέβεια
τηρῆται. ἀλλ' ἐπειδὴ τοῦτο οὐχ οἷόν τ' ἦν ἀκλινῇ καὶ βεβαίαν τάξιν λαβεῖν, εἰ μὴ, εἰς
ταῦτόν πάντων ὁμοῦ ἢ τῶν γούν πλειόνων ἐπισκόπων συνελθόντων, ἐκάστου τῶν
προσηκόντων τῇ ἀγιωτάτῃ θρησκείᾳ διάκρισις γένοιτο, τούτου ἕνεκεν πλείστων
ὅσων συναθροισθέντων (καὶ αὐτὸς δὲ καθάπερ εἷς ἐξ ὑμῶν ἐτύγχανον συμπαρών. οὐ
γὰρ ἀρνησαίμην ἄν, ἐφ' ᾧ μάλιστα χαίρω, συνθεράπων ὑμέτερος οὐ γὰρ ἀρνησαίμην
ἄν, ἐφ' ᾧ μάλιστα χαίρω, συνθεράπων ὑμέτερος πεφυκέναι), ἄχρι τοσούτου ἅπαντα
τῆς προσηκούσης τετύχηκεν ἐξετάσεως, ἄχρις οὗ ἢ τῶ πάντων ἐφόρῳ θεῷ
ἀρέσκουσα γνώμη πρὸς τὴν τῆς ἐνότητος συμφωνίαν εἰς φῶς προήχθη, ὥς μηδὲν ἔτι
πρὸς διχόνοιαν ἢ πίστεως ἀμφισβήτησιν ὑπολείπεσθαι. Preserved in Eusebius, *Life of*
Constantine 3.17. (Extant also in Socrates *Ecclesiastical History* 1.9, Theodoret
Ecclesiastical History 1.9, and Gelasius *Ecclesiastical History* 2.37.10.)

¹⁸ A more traditional interpretation of this letter would agree with James Stevenson that Constantine must have simply misunderstood the significance of the dispute. "It is clear from Constantine's letter that he was as yet imperfectly acquainted with the importance of the controversy." Stevenson, *A New Eusebius*, 354.

among Christians leads to general prosperity of the empire.¹⁹ Later in this same letter he demonstrates the mechanics of this Christian epistemic commitment in the same way that Valerius Maximus's story at the beginning of chapter three displays the mechanics of Traditionalist Roman epistemology. In Constantine's eyes, it is inappropriate *a priori* for one group to be fasting while another feasts. "As I am sure you all are already aware, it is for this reason divine Providence desires that this matter should achieve the proper settlement and be brought under a single regulation."²⁰

Constantine's concern for proper cultic performance as guarantor of divine protection is not unique to him, nor is it uniquely Christian. Susanna Elm showed in *Sons of Hellenism* that the *pax deorum*, and by extension the *pax Romana*, was always bound up in the discovery of universal philosophical precepts. Imperial Stability was always an epistemic concern.²¹

¹⁹ Whether "unity" was in fact achieved at the Council of Nicaea, what role Eusebius'

Life of Constantine played in producing that unity, and how much Eusebius's literary predilections stand in the way of adjudicating these questions will forever be up for debate. See Davide Dainese, "Costantino a Nicea. Tra realtà e rappresentazione letteraria;" and Hermann Josef Sieben, *Die Konzilsidee in der alten Kirche*, 307–314.

²⁰ διὰ τοῦτο γοῦν τῆς προσηκούσης ἐπανορθώσεως τυχεῖν καὶ πρὸς μίαν διατύπωσιν

ἄγεσθαι τοῦτο ἡ θεία πρόνοια βούλεται, ὥς ἔγωγε ἅπαντας ἡγοῦμαι συνορᾶν.

Preserved in Eusebius *Life of Constantine* 3.18.

²¹ "Greek wisdom and Roman power were, further, distinct, in that each represented universality, understood as the proper inclusion, adaptation, and improvement of

Cicero, for instance, makes precisely the same logical connection in his *Laws*.²² The logic was not unique to Constantine among early-fourth century Catholics, either. In his oration to honor the emperor's thirty years in the purple, Eusebius of Caesarea echoed back to Constantine the connection between doctrinal unity and imperial prosperity, which began already with Augustus.

In this period, one empire flowered everywhere: the Roman empire. And the eternally relentless and irreconcilable hostility of nations was suddenly resolved. As the knowledge of one god was passed down to all people, along with a single manner of piety—the salvific teaching of Christ—in the same way and at the same time, a single ruler rose for all of the Roman empire, and an abiding peace took hold everything. Together—at the same moment, as a single command of god—two beneficial shoots were produced for humankind: the empire of the

peoples, customs, divinities, and their teachings that were originally not Roman or Greek. That is, Greek wisdom and Roman dominance both embodied correctly integrated wisdom and knowledge (including knowledge of things divine) of barbarian origin; on that, all were in agreement. But such integration, especially of things divine, was dangerous, since false teachings of false gods—wrong innovations—threatened the security and longevity of the *oikoumenē*. Greek and Roman history provided sufficient examples of the divine wrath called forth by such mistakes. Who, then, was innovating correctly?" Susanna Elm, *Sons of Hellenism*, 122–3.

²² Cicero, *Laws* 2.30.

Romans and the teachings of true worship.²³

Roman Traditionalists of the later fourth century did not desert the classical understanding of the *pax deorum*, either. Symmachus, one of the last truly influential Traditionalists in the Roman aristocracy, famously scolded the boy emperor Valentinian II in 384.

Who is so friendly with the barbarians that he doesn't need an Altar of Victoria?... Those who it doesn't benefit—let *them* disdain this power. Don't you go and abandon a patronage that favors your triumphs!²⁴

²³ ἐν ταῦτῳ δὲ καὶ βασιλεία μία τοῖς πᾶσιν ἡ Ῥωμαίων ἐπήνθει, ἀνήρητό τε ἀθρώως ἡ ἐξ αἰῶνος ἄσπειστος καὶ ἀκατάλλακτος τῶν ἐθνῶν ἔχθρα. ὥς δὲ ἐνὸς θεοῦ γνῶσις πᾶσιν ἀνθρώποις παρεδίδοτο καὶ τρόπος εἰς εὐσεβείας σωτήριός τε ἡ Χριστοῦ διδασκαλία, κατὰ ταῦτα καὶ βασιλέως ἐνὸς ὑφ' ἑνα καὶ τὸν αὐτὸν χρόνον καθ' ὅλης τῆς Ῥωμαίων ἀρχῆς ὑποστάντος εἰρήνη βαθεῖα τὰ σύμπαντα διελάμβανεν. ὁμοῦ τε καὶ ὑφ' ἐνὶ καιρῷ ὥσπερ ἐξ ἐνὸς θείου νεύματος ἀνεφύοντο εἰς ἀνθρώπους ἀγαθῶν δύο βλαστοί, ἡ τε Ῥωμαίων ἀρχὴ καὶ ἡ εὐσεβῆς διδασκαλία. Eusebius, *Tricennial Oration* 16.4.

Translation adapted from Drake, *In Praise of Constantine*. Text GCS 7.

²⁴ *Quis ita familiaris est barbaris, ut aram Victoriae non requirat? ...Aversentur hanc potestatem, quibus nihil profuit. Vos amicis triumphis patrocinium nolite deserere.* Symmachus *Relationes* 3.3-4. Text Callu. Symmachus's deployment of an imperative (*deserere*) in a letter to the emperor is both striking and indicative a truly unconventional dynamic between the young emperor and the famous prefect at the

Constantine's concern with intellectual unity was a traditional Roman anxiety over the *pax deorum*, refracted through Christian theological commitments.²⁵ And the emperor's focus on universality, predicated on the empire's need of divine favor, defined his approach to truth. His desire to identify and promulgate a statement of universal truth, in turn, determined the shape and focus of the Catholic Christianity that flourished in his wake. This is not to say that before the reign of Constantine, Christian scholars were not interested in doctrinal unity. Rather, before the blending of Christian theology with imperial ideology that occurred under the patronage of Constantine, the impetus toward unity among Christians was never chiefly the general prosperity of the Roman empire. The fact that Nicene Christians insisted so assiduously, and violently, on doctrinal uniformity cannot be separated from a Roman ideology of state prosperity that was ported into theological disputation during the reign of the Empire's first Christian sovereign.

The preceding has been an analysis of the citational forms of early Christians who were actively forging new ideas about scripture, and about scriptural interpretation. A young Athanasius was present at the Council of Nicaea, intending to apply his keen exegetical skills to scripture, excising biblical language to construct a new statement of faith that could unite factions and bring the peace, and prosperity, that Constantine so desperately desired. By the end of his life, Athanasius had shifted away from a his

height of his power. My translation tries to capture the condescending tone.

²⁵Noel Lenski makes similar point, on the basis of different evidence, in *Constantine and the Cities*, 78.

youthful contention that of scripture, and scriptural interpretation, was chiefly important for clarifying doctrine, and so had his Catholic peers.

Athanasius of Alexandria

Athanasius always punched above his weight. He was enduringly controversial during his life, earning both five imperial exiles and an oration of praise by the bishop of Constantinople, who called him “the pillar of the Church” some eight years after his death.²⁶ He spent a long life in service of the Nicene definition of faith, which was conceived just three years before he succeeded his patron and mentor Alexander as bishop of Alexandria. Over the course of Athanasius’s public life, which spanned almost precisely the period between the Council of Nicaea and the beginning of the Theodosian dynasty,²⁷ Orthodox disputants on either side of the Nicene controversy shifted their

²⁶ ὁ στυλος τῆς Ἐκκλησίας. Gregory Nazianzen, *Oration* 21.26. Text PG 35. The specific date of this oration is difficult to pin down, but given that Nazianzen was bishop of Constantinople only 379–81, and that his oration claims to be given in Constantinople (μετὰ δὲ τοῦτο τὴν μεγαλόπολιν, 22), the range of possible dates is slim. On Athanasius’s rocky relationship with Constantine see Noel Lenski, “Early Retrospective on the Christian Constantine: Athanasius and Firmicus Maternus,” 466–471.

²⁷ Athanasius was consecrated (one of the) Bishop(s) of Alexandria on April 17, 328, and remained in that post, with the exception of his five exiles, until his death on May 2, 373. For a full chronology of Athanasius’ career, see Barnes, *Athanasius and*

defensive tactics. Along with his interlocutors and contemporaries, Athanasius moved dramatically away from the interpretation of scriptural text, focusing rather on doctrinal positions that began and terminated with creedal statements of faith. Athanasius' career reflected, and more often catalyzed, the shift in epistemology that underlies the Theodosian embrace of creeds and codes explored in the next chapter. For this reason his literary *oeuvre*, and his impact on the rules and contents of debate in the aftermath of the Council of Nicaea, deserves special attention. The rise of the code perhaps wouldn't, perhaps couldn't, have occurred without him.

We see a bit of the young Athanasius, perhaps in his mid-twenties, in a letter referred to by the first two words of its incipit: *One Body*. The letter is ascribed to Alexander of Alexandria, but was likely written by Athanasius himself sometime between 318 and 324.²⁸ This circular letter to all bishops was one of the 'opening shots' of the Nicene controversy, and in it we see two strategies of truth production working together for Athanasius' polemical ends. First, the letter begins by claiming to be

Constantius, 19–33.

²⁸In any event, it came from the chancery in which Athanasius worked as Alexander's secretary. For a full accounting of the issues involved in both the dating and authorship of this letter and the other documentary texts stemming from the "Arian controversy," see Sara Parvis, *Marcellus of Ancyra*, 68–83; and Rowan Williams, *Arius*, 48–59. On this letter specifically, Christopher Stead concluded that "Athanasian authorship of Ἐνὸς σώματος is not merely probable...but demonstrably certain." Stead, "Athanasius' Earliest Written Work," 76.

centrally motivated by the Constantinian trope of divinely ordained unity.²⁹ That is, this public facing document from the chancery of Alexander begins with an argument sure to find receptive ears in the imperial court; Athanasius told Constantine what he wanted to hear. Second, in *One Body*, scripture is used as check on creedal statements. Specifically, scripture is invoked as a check on the letter's chief polemical target: a negative creed that Athanasius asserts comprises "things that that they assert upon discovery, going beyond scripture."³⁰ While the faulty "creed" states, for instance, that "the Word of God was not always in existence, but came into being from nothing,"³¹ Athanasius responds "Who that hears John saying, 'In the beginning was the Word,' does not condemn those who say, 'There was a time when the Word did not exist?'"³²

The ultimate aim of *One Body* is to condemn heresy and to ostracize those who had

²⁹ "Since the *Catholic* church is one body (Ἐνὸς σώματος ὄντος τῆς καθολικῆς ἐκκλησίας), and we are commanded in the divine Scriptures to maintain 'the bond of unity and peace,' it follows that we should write, and mutually acquaint each another with the things that have happened among each of us, so that 'if one member suffers or rejoices, we may either sympathize or rejoice with one other.'" *Urk.* 4b.2–3. The quotations are from *Ephesians* 4:3 and *1 Corinthians* 12:26, respectively.

³⁰ ποῖα δὲ παρὰ τὰς γραφὰς ἐφευρόντες λαλοῦσιν *Urk.* 4b.7

³¹ οὐκ αἰεὶ ἦν ὁ τοῦ θεοῦ λόγος, ἀλλ' ἐξ οὐκ ὄντων γέγονεν. *Urk.* 4b.7

³² τίς ἀκούων Ἰωάννου λέγοντος, "ἐν ἀρχῇ ἦν ὁ λόγος," οὐ καταγινώσκει τούτων λεγόντων, "ἦν ποτε ὅτε οὐκ ἦν." *Urk.* 4b.12

been condemned,³³ not to interpret scripture or to offer a positive statement of faith for the Universal (“Catholic” καθολικῆς) community. According to Athanasius, the doctrines attributed to “those around Arius”³⁴ cannot be true on the grounds that their statements are falsifiable within the framework of scripture. Athanasius appeals to the authority of scripture for falsification, but not for interpretation. In the words of Ellen Muehlberger, “In a way, [Athanasius’s] writings from the 320s and 330s ventriloquized his thoughts through Scripture, taking on the voice of Paul or the voice of the gospels to better say what his own exposition might also have expressed.”³⁵

Athanasius wrote *One Body* as a young man, when battle lines of the controversy were still being drawn. At that point there was no common term to denote “Arius and those around him,” nor was there a countervailing creed to be held up as an unimpeachable statement of truth, in opposition to the Nicene Creed.³⁶ By the time that

³³ The last section thus begins “We have also made it clear to your pious minds, beloved and most honored fellow-servants, that you should not welcome any of these men, if they hurriedly approach you, nor be persuaded to receive any letter in their defense from Eusebius or anyone else.” *Urk.* 4b.20

³⁴ τοὺς περὶ Ἀρείου *Urk.* 4b.11

³⁵ Ellen Muehlberger, *Angels in Late Ancient Christianity*, 63.

³⁶ “No fourth-century thinker who is normally regarded as an ‘Arian’ or ‘Neo-Arian’ would ever have applied the term to himself. The label was a term of abuse: Athanasius and his allies habitually employed a broad definition which turned all their enemies into ‘Arians.’ In the early middle decades of the fourth century, the

Athanasius penned the first full account of the Council of Nicaea, however, thirty years had passed, and the polemical and citational outlook was radically different.³⁷ But even after these thirty years, the Nicene creed was still little-known, even among the some of the most outspoken theological minds of the day.³⁸ In the Latin West, the necessity of

crucial political (and perhaps theological) divide lay between those who considered Arius an utter heretic who must be expelled from the church and those who thought that his views, at least when he dropped one or two extreme formulations, fell within the limits allowed by the traditional teaching of the church, within what Eusebius of Caesarea defined as ‘ecclesiastical theology.’” Timothy Barnes, *Athanasius and Constantius*, 15. On the creation of ‘Arians’ and ‘Arianism,’ see Lewis Ayres, *Nicaea and Its Legacy*, 105–113.

³⁷For a full account of these years, and the pivotal years that Athanasius spent in Rome with Marcellus of Ankyra, see Lewis Ayres, *Nicaea and Its Legacy*, 105–117,

³⁸Hilary of Poitiers, *Letter on the Synods* 91. (PL 10.545a). As further evidence of the East/West divide in attendance to these questions late into the 350s, Constantius II’s letter to the Alexandrians claims in 357 that the debate, and the struggle between Athanasius and George, was so well known that it filtered even into the rural areas. “Even among those living on the frontier, who is ignorant of the rivalry in the events that have taken place (καίτοι τίς ἄγνοεῖ καὶ τῶν τὰς ἐσχατίας οἰκούντων τὴν ἐπὶ τοῖς πραχθεῖσι φιλοτιμίαν)?” Athanasius, *Apology to the Emperor Constantius* 30.3. Text AW 2.8. In another letter of 357, addressed to coregents Aezenes and Sazanes, Constantius II claims that news of Athanasius’s disgrace and exile had traveled all the

creedal statements was not obvious even as late as 359, when Hilary's exile in the East led him to learn of the theological strife in the East and to write an extensive letter to Western bishops informing them of the dispute, and his position on it.³⁹ But in the Greek East, questions about it were hotly debated. 'How was the Nicene creed created? What is the nature of its authority? What is an Orthodox understanding of the relationship between the Nicene Creed and the scriptural texts that simultaneously interprets and constrains?' Answers to these questions had earned Athanasius two imperial exiles already. By the time another twenty years passed, however, a Christian senator claimed confidently in a Latin treatise for the emperor that the Nicene Creed was not only universally applicable, but that it was written at a council attended by Jesus Christ

way to Axume (modern Aksum). *ibid.* 31.5.

³⁹ "But, brethren [Western bishops], you enjoy happiness and glory in the Lord, who meanwhile retain and conscientiously confess the whole apostolic faith, and have hitherto been ignorant of written creeds. You have not needed the letter, for you abounded in the spirit. You required not the office of a hand to write what you believed in your hearts and professed unto salvation. It was unnecessary for you to read as bishops what you held when new-born converts. But necessity has introduced the custom of expounding creeds and signing expositions. Where the conscience is in danger we must use the letter. Nor is it wrong to write what it is wholesome to confess." Hilary of Poitiers, *Letter on the Synods* 63. (PL 10.523B–C) Translation NPNF. On Hilary's changing rhetoric during exile see Jennifer Barry, "Heroic Bishops."

himself!⁴⁰ The story of Christian scholasticism over the fourth century is the story of the Nicene Creed's rise from a distillation of scripture, to a check on scriptural interpretation, and finally to universal statement upon which all exegesis could be judged.

I turn now to Athanasius's *Letter Concerning the Decrees of the Council of Nicaea*: the first full account of the council, composed likely during the bishop's third exile (356–62).⁴¹ The main concern of Athanasius's letter is to construct a new form of argument, one that is able to deal finally with the problem of “Arian”⁴² exegetes who justify for heretical positions through exegesis of an underdetermined scriptural canon—a canon

⁴⁰ Ambrose, *On Faith* 1.18.121. Text *CSEL* 78.51.

⁴¹ Opitz (AW, 2.1.2n15) first suggested a date of 350/51, but I agree with Brennecke that Athanasius's concern with defending the term ὁμοούσιος particularly suggests that the treatise is most intelligible in the context of the Second Sirmian Formula, composed in 357. “Vor 357 ist jedenfalls das Nizänium, soweit erkennbar, nie ausdrücklich angegriffen worden.” Hanns Christof Brennecke, *Hilarius von Poitiers und die Bischofsopposition gegen Konstantius II*, 11n41. *Concerning the Decrees* was not Athanasius's first overt polemic against Arians as such, which began with his sojourn in Rome, alliance with Marcellus, and composition of the *Orations Against the Arians* in the 340s. Ayres, *Nicaea and Its Legacy*, 107.

⁴² I use the term “Arian” here only due to scholarly convention—there was no group named thus during the period under discussion. Everyone discussed here claimed the same communal identity: Catholic Christian. For his part, after the Council of Nicaea, Constantine thought that “Arians” should be called “Porphyrians.” *Urk.* 33.

incapable of refuting Arian arguments once and for all, because they continually find new scriptures upon which to base their theological convictions.⁴³ Athanasius knew the problem already in the 320s, when he wrote in *One Body*, and nevertheless intended to construct a creed based solely on the words of scripture. “We have often shamed these men by stating these things, and by opening up the divine scriptures for reading. But like chameleons, they morph themselves again.”⁴⁴

According to Athanasius forty years later, the problem was not solely the machinations of Arian interpreters. The problem, rather, was the nature of scripture itself. His *Letter Concerning the Decrees* begins with a screed against those who focus on scriptural interpretation as a central site of theological contestation, and as a central framework for producing truth. These “chameleons (χαμαιλέοντες)” focus on scriptural interpretation “in extreme perverseness (ἐπὶ πάσῃ κακοφροσύνῃ).” When they complain that the creed from Nicaea used terms not found in scripture, they “mutter like the Jews (διεγόγγυζον κατὰ τοὺς Ἰουδαίους).”⁴⁵ In typical style, the preface crescendos with

⁴³ As Timothy Barnes rightly notes, another aim of the treatise was more political than intellectual or theological: Athanasius softened his language around Arianism, and who rightly deserves the moniker, in an attempt to mend fences with the men who deposed him. Barnes, *Athanasius and Constantius*, 134.

⁴⁴ *Urk.* 4b.16.

⁴⁵ “Why did those convened at Nicaea use terms that are not in scripture, like ‘of the essence’ and ‘singular essence’ (διατί οἱ ἐν τῇ Νικαίᾳ συνελθόντες ἔγραψαν ἀγράφους λέξεις τὸ ἐκ τῆς οὐσίας καὶ τὸ ὁμοούσιον)?” *Concerning the Decrees* 1.1.

Athanasius throwing scripture at his enemies, paraphrasing *Ezekiel* 11:2. Heretics indeed do something “according to scripture,” he claims, ““they have come to an inane conclusion.””⁴⁶

The problem was that Arians looked to scriptural interpretation as a primary epistemic tool, and were, as such, “latter-day Judaizers.”⁴⁷ They come to their position through both “ignorance of the truth and inexperience in divine scripture”—a phrase that is not simple hendiadys, or merely a rhetorical flourish.⁴⁸ Rather, Athanasius argues that proper knowledge of the truth is pre-scriptural, or that truth is at least conceptually separable from scriptural interpretation. The truth, according to Athanasius, is the teaching handed down from the patrimony of the tradition with a unity of message, beginning with Moses and ending with the very wording of the Nicene Creed.⁴⁹

Text AW, vol. 2.1. It is very likely that Athanasius’ defense of Nicaea’s terms in *Concerning the Decrees* was written as a response and foil to Eusebius’ *Letter to the Caesareans*. See Ayres, “Athanasius’ Initial Defense of the Term *homoousios*.”

Translations made with reference to NPNF and Khaled Anatolios, *Athanasius*, 143–171. This passage is conceptually and lexically similar to Athanasius’s first attack on “Arians,” in his *Orations Against the Arians* 1.8.

⁴⁶ κατὰ τὸ γεγραμμένον: λογίσωνται μάταια. *Concerning the Decrees* 1.2.

⁴⁷ Ἀρειανοὶ δὲ νῦν ἰουδαίζοντες. *Concerning the Decrees* 2.1.

⁴⁸ τῆς ἀληθείας ἀγνωσία καὶ τῶν θεῶν γραφῶν ἀπειρία. *Concerning the Decrees* 17.1.

⁴⁹ *Concerning the Decrees* 5. The striking correspondence in form and content with *Mishnah Avot* 1 deserves full discussion elsewhere.

Patrimony and scripture go hand in hand; one cannot exist without the other. This is not a position that Athanasius had always held, however — he came to it only later in life, in the 350s. Nor was it the position of the bishops attending the Council of Nicaea, upon entering the chambers in 325. The situation is succinctly summed up by Richard Vaggione.

The bishops' starting-point is said to have been a profession of faith used in one of the local churches and connected with the liturgy of baptism. It was hoped that the addition of a number of specific phrases would exclude the offending propositions and make it possible to define the Son's relationship to the Father more acceptably. In the beginning the intent was to take these clauses from scripture. The son would be described as 'not from nothing, but from God', the 'Word and Wisdom of God', and 'not a creature or thing made'. Moreover, he was to be affirmed as the true Power and Image of the Father, the Word exactly like him in all things... existing in him without change or separation. None of these proved adequate. The reason was that in each case the opposition was able to come up with another passage which used the phrase in a sense compatible with the condemned propositions. The only remaining alternative seemed to be to go outside of scripture altogether.⁵⁰

According to Athanasius, the assembled bishops at Nicaea intended to compose a universally binding creed on the basis of scripture alone.

⁵⁰ Vaggione, *Eunomius of Cyzicus*, 53.

But the fathers, perceiving [their opponents'] craft and the cunning of their impiety, were forced to express more distinctly the sense of "from God," and so they wrote "the Son is from the essence of God" in order that "from God" might not be considered common and equal in both the Son and in things that have come to be; but that all others might be acknowledged as created things, and the Word alone as from the Father.⁵¹

In this passage we see Athanasius admit the failure of scripture. Interpretation alone was not sufficient to guarantee the production of true knowledge.⁵² In light of this failure, Athanasius turns for the rest of his letter to the creation of a patrimony to support the language of the council, language that in the words of Lewis Ayres had become "verbal talismans" in the polemical debate that raged after the Council of Nicaea.⁵³

⁵¹ ἀλλ' οἱ πατέρες θεωρήσαντες ἐκείνων τὴν πανουργίαν καὶ τὴν τῆς ἀσεβείας κακοτεχνίαν ἠναγκάσθησαν λοιπὸν λευκότερον εἰπεῖν τὸ 'ἐκ τοῦ θεοῦ' καὶ γράψαι 'ἐκ τῆς οὐσίας τοῦ θεοῦ εἶναι τὸν υἱὸν' ὑπὲρ τοῦ μὴ τὸ 'ἐκ τοῦ θεοῦ' κοινὸν καὶ ἴσον τοῦ τε υἱοῦ καὶ τῶν γεννητῶν νομίζεσθαι, ἀλλὰ τὰ μὲν ἄλλα πάντα κτίσμα, τὸν δὲ λόγον μόνον ἐκ τοῦ πατρὸς πιστεύεσθαι. *Concerning the Decrees* 19.2–3.

⁵² Athanasius's tack here is dissimilar, too, from the precise, lexical argumentative method in his *Orations Against the Arians*, on which see Ellen Muehlberger, *Angels in Late Ancient Christianity*, 66–9.

⁵³ "A term originally chosen for polemical purposes and without any dense, well-established theological meaning was gradually identified as a key marker of pro-Nicene orthodoxy." Ayres, "Athanasius's Initial Defense," 339. See also Ayres,

It is important to remember that this document, written in the mid-to-late 350s, is the first significant use of the term “of the same substance” (ὁμοούσιος) by Athanasius—the word that would become the central point of contention for years to come, and that formed the battle line over which opposing factions were drawn up.⁵⁴ It is important also to remember that *Concerning the Decrees* is polemical and creative. It is tempting to read Athanasius’s method in line with the modes of argumentation accepted by a later, more established epistemic orthodoxy, but his rhetorical strategy was radical and innovative;

Nicaea and Its Legacy, 99. “Nicaea’s creed was not designed to do much more than: (a) earn the approval (however grudging) of a majority present and (b) make it clear that certain perceived errors of Arius and his early supporters were unacceptable. If this is so then perhaps Nicaea’s creed was both intended to reflect the views of the coalition who framed its distinctive terminology, and yet had to hide some of their idiosyncrasies in order to provide a common front and to achieve wider consensus at the council...Far too much traditional discussion about the disputes immediately after Nicaea takes at face value the fourth-century polemical accusation that a given opponent is distorting Nicaea or its intention. Such tactics hide the pluralistic nature of this original Nicene theology.”

⁵⁴ “...the emergence of ὁμοούσιος was interwoven with the emergence of the very idea that particular terms used in creedal contexts might function as universal markers of Christian orthodoxy.” Ayres, “Athanasius’s Initial Defense,” 340. He does use it in passing in *Against the Arians* 1.9, but without the kind of defense it gets in *Concerning the Decrees*.

the treatise shows Athanasius inventing a new structure of knowledge by polemicizing against a group that, until very recently, was well within the bounds of “Catholic” Christianity. We are well served to remember Éric Rebillard’s warning: “scholars interested in Christian polemical debates in late antiquity must... be careful not to accept as a commonly held rule what was in fact being constructed as a polemical tool.”⁵⁵

With the concluding twenty-one chapters of *Concerning the Decrees*, Athanasius responds to the failure of scriptural interpretation discussed above, he briefly defends the metaphysics of the new creedal language of “the same substance,” and he showcases extended quotations from Theognostus, Dionysius of Alexandria, and Origen that use the term “substance” (οὐσία) with his preferred valence. The reader is supposed to understand through Athanasius’s presentation that, standing behind the seemingly novel language of the Nicene Creed, is an Orthodox patrimony stretching back nearly two centuries. The apparent novelty of the definition is a mirage. “It is in this same sense that those gathered in Nicaea decreed these terms. But let us now prove that they did not invent these things and manufacture them on their own, as these ones allege, but spoke what they received from those before them. So this excuse also will be snatched away from them.”⁵⁶

⁵⁵ Éric Rebillard, “A New Style of Argument,” 561. This comment is made in the context of Augustine, but the warning stands in this case as well.

⁵⁶ Οἱ μὲν οὖν ἐν τῇ Νικαίᾳ συνελθόντες ταύτην ἔχοντες τὴν διάνοιαν τοιαύτας καὶ τὰς λέξεις ἔγραψαν. ὅτι δὲ οὐχ ἑαυτοῖς πλάσαντες ἐπενόησαν ταύτας, ἐπειδὴ καὶ τοῦτο προφασίζονται, ἀλλ’ ἄνωθεν παρὰ τῶν πρὸ αὐτῶν παραλαβόντες εἰρήκασι, φέρε καὶ

In *Concerning the Decrees*, Athanasius moves beyond his earlier position in which scriptural citation served as a check on and means of falsifying heretical doctrines. Here he marshals evidence of an orthodox patrimony in order to create a paratext for the scripture in a way that justifies the language of the council, most importantly the term “of the same substance (ὁμοούσιος).”⁵⁷ He does this by offering calques on terms in scripture. For instance, he decrees that whenever one reads “of the Father” referring to Jesus within

τοῦτο διελέγξωμεν, ἵνα μηδὲ αὕτη αὐτοῖς ἡ πρόφασις περιλείπηται. *Concerning the Decrees* 25.1–2. For his part, Augustine picks up on Athanasius’s more mature position espoused in *Concerning the Decrees*, agreeing with his Donatist opponents in 411 CE that “we should without a doubt hold to that which we discover in scripture, and reject the accusatory opinions of people—to hold fast to the divine words, which cannot deceive. (*procul dubio eam tenere debuimus quam in scripturis inveniremus, et criminatrices opiniones hominum repudiare, ad soa eloquia divina, quae mentiri nesciunt, nos tenere*).” *Acts of the Council of Carthage in 411* 3.101. Text SC 194. Like Athanasius, Augustine was quick to distance himself from the interpretation of any one commentator while acceding to the authority of a more-or-less univocal tradition. (A “tradition” chosen for its relative lack of diversity, to be sure.) See Rebillard, “A New Style of Argument,” 566.

⁵⁷ Lewis Ayres is right to insist that the term itself is not fundamental to Athanasius’ theology, and that “we can only understand its role against the background of a set of other terms, images, and phrases taken by Athanasius himself to be at the heart of Christian belief.” Ayres, “Athanasius’s Initial Defense,” 339.

the canon, one should understand rather “from the substance of the Father.”⁵⁸ Beyond Bart Ehrman’s seminal exploration of “Orthodox corruptions” of the *text* of scripture, here Athanasius defines the boundaries of Orthodoxy itself as requiring an Orthodox corruption in the *reading* of scripture.⁵⁹ Athanasius’s exposition of the Nicene creed uses the rhetoric of scriptural interpretation and traditional authority to propose a radically new hermeneutic dogma, and to contrive an Orthodox patrimony for an utterly novel epistemic position.

Athanasius and the “Canon”

Around fifteen years after he wrote his first full defense of the work of Nicaea in *Concerning the Decrees*, Athanasius wrote a festal letter laying out, for the first time, the “canonized” texts which constituted the “divine writings that we have for salvation.”⁶⁰

⁵⁸ For instance 19.4, “But as regards the Word, since he is not a created thing, he alone is both called and is ‘from the Father.’ And it is significant of this sense to say that the Son is ‘from the essence of the Father,’ which does not pertain to anything that has come into being. (ὁ δὲ λόγος, ἐπεὶ μὴ ‘κτίσμα’ ἐστίν, εἴρηται καὶ ἔστι μόνος ‘ἐκ τοῦ πατρός,’ τῆς δὲ τοιαύτης διανοίας γνώρισμα τὸ εἶναι τὸν υἱὸν ‘ἐκ τῆς οὐσίας τοῦ πατρός,’ οὐδενὶ γὰρ τῶν γενητῶν ὑπάρχει τοῦτο).”

⁵⁹ Bart D. Ehrman, *The Orthodox Corruption of Scripture*.

⁶⁰ περὶ δὲ ἡμῶν ὡς ἐχόντων πρὸς σωτηρίαν τὰς θείας γραφάς. Athanasius, *Festal Letter* 39 71. The text is fragmentary, and extant in Greek and Coptic. Greek text Joannou, *Discipline générale antique*, 71-76. David Brakke points out that for Athanasius and

Athanasius claims that he wrote the letter in response to the problem of “Melitians boasting about books that they call ‘apocryphal.’”⁶¹ The letter was written on the heels of

many other Christian scholars in the fourth century, “canonical” texts are only a subset of a larger group of writings known as “scripture” (above, τὰς θείας γραφάς).

Brakke, “Canon Formation and Social Conflict,” 397. Translations of *Festal Letter 39* are adapted from Brakke, *Athanasius and Asceticism*, 326–332. In my estimation, the so-called “Muratorian fragment” (first described by L. A. Muratori and recipient of numerous studies since) is not likely to pre-date Athanasius’ 39th Festal letter, and Claire K. Rothschild has recently made a plausible argument that the fragment itself is a fake. A now standard treatment is that of Albert C. Sundberg, “Canon Muratori: A Fourth-Century List.” See a full account of the history of scholarship in Claire K. Rothschild, “The Muratorian Fragment as a Roman Fake,” 55–69.

61 “Rather, because I heard that the heretics, particularly the wretched Melitians, were boasting about the books that they call ‘apocryphal,’ I thus have informed you of everything that I have heard from my father, as if I were with you and you with me in a single house, i.e. the Church of the living God, the pillar and strength of truth (ἀλλὰ ἡτερισωτῆ δεῖν ῥαιρετικός, μᾶλλον δὲ νεῖ<ε>βην ἡμελιτιανός, σεφοῦσος ἡμοῦ ἐχῆν ἔωμε ετοῦμοι τε εροῦν δεσπογραφον ἐτβεπαῖ νενταισοτμοῦ τηροῦ ἡτῆ παειωτ αἰταμωτῆ εροῦν, ὥς εἰς ἀρτῆ τηγτῆ ἄγω ἐτετῆ ρα ρτῆ ῥῆογῆι ῆογωτ, ἐτεταῖτε τεκκλησια ἡπνοῦτε ετονῆ πετγῆλλος ἄγω πταῆρο ἡτμε).” Text CSCO 150. Translation David Brakke, *Athanasius and Asceticism*, 326–33. I have

Athanasius' fifth (and final) exile, and sent to clerics as instruction regarding the manner in which scripture is to be used in their communities—a matter that required the bishop's intervention, apparently.

Two observations will prove useful at this juncture: first, the extent of books that Athanasius deems “useful” includes books that are not within his canon.⁶² At least one of these scriptures, the *Shepherd of Hermas*, was useful enough that Athanasius quoted it alongside the *Letter of James in Concerning the Decrees*, intending thereby to prove the

written elsewhere about the various distortions read into this letter by presuming that forged texts are mainly at issue. Letteney, “Authenticity and Authority,” 44–47 and 53n45.

⁶² “There are other books in addition to these which have not been canonized, but have been appointed by the ancestors to be read to those who newly join us and want to be instructed in the word of piety: the *Wisdom of Solomon*, *Wisdom of Sirach*, *Esther*, *Judith*, *Tobit*, the book called *Teaching of the Apostles*, and the *Shepherd*.” Athanasius, *Festal Letter* 39 75. ἔστι καὶ ἕτερα βιβλία τούτων ἔξωθεν, οὐ κανονιζόμενα μὲν, τετυπωμένα δὲ παρὰ τῶν πατέρων ἀναγινώσκεισθαι τοῖς ἄρτι προσερχομένοις καὶ βουλομένοις κατηχεῖσθαι τὸν τῆς εὐσεβείας λόγον. Σοφία Σολομῶντος καὶ Σοφία Σιράχ καὶ Ἑσθήρ καὶ Ἰουδίθ καὶ Τωβίας καὶ Διδαχὴ καλουμένη τῶν ἀποστόλων καὶ ὁ Ποιμὴν. Theodore Zahn's discussion of this passage, and the relationship of these seven books to both the “canonized” and the “apocrypha” remains eminently useful. Zahn, *Athanasius und der Bibelkanon*, 26–29.

patrimony of his message.⁶³ Second, Athanasius's refutations of Arius from the 310s and 320s don't evidence any sort of confusion as to what group of texts are considered authoritative by all disputants involved; there is merely a dispute about how various statements in those texts are to be subordinated to one-another. That is to say, already 50 years before Athanasius's *39th Festal Letter*, Christian theologians knew what constituted something like a "canon within the canon," or passages and books of scripture that hold greater or lesser weight than others. The "canon" that Athanasius described in 367 is a corpus of quite a different sort; one that is permeable. There are books outside of the canon that are useful for newcomers, and books on the inside that are apparently not particularly useful for technical, elite theological debate.

This distinction helps me get at something central to the way that citations are used, and the manner in which scripture is authoritative to Athanasius and others in the fourth century. In the wake of the decrees of Nicaea, the struggle over orthodoxy moved away from finding authoritative statements of doctrine *within* scriptural texts, and instead toward justifying the language of the council's pronouncements *with reference to* scriptural texts. The "canon" that Athanasius describes in his *39th Festal Letter* comprises texts that are capable of being brought as evidence to check a creedal statement. But by the time that he "defined" the canon in 367, he was doing quite the opposite in his polemical and protreptic scholarship: he was using creedal statements as a paratext and necessary precondition for authoritative interpretations of canonized scripture. The "paratext" that he offers is no paratext at all; it had become the text.

⁶³ *Concerning the Decrees* 4.

This movement from paratext to text served to “canonize” not a particular set of scriptures, which had effectively already been done by at latest the 320s, but rather to authorize a set of technical calques on scripture that govern its Orthodox interpretation. In the years after writing *Concerning the Decrees*, Athanasius regularly reaffirmed the apparently paradoxical position that all canonical texts were equally scripture, but that there was nevertheless a necessary, pre-scriptural understanding that served to guide any reading—and especially the reading of *seemingly* contradictory passages. For instance, in his *Letters to Serapion*, written during the course of his third exile (perhaps around 360) and thus at around the time that he composed *Concerning the Decrees*, Athanasius wrote,

They use what is written in the book of Proverbs, “The Lord created me (Κύριος ἔκτισέ με) as a beginning of his ways for his works” as a pretext for stating, “Look! He was created—he is a created being (κτίσμα ἐστίν).” For this reason it is necessary to demonstrate how far they go astray by not knowing the scope (τὸν σκοπὸν) of divine scripture.⁶⁴ For if he is a son, let it not be said that he is a created being. But if he is a creature, let him not be called a son. I demonstrated above what a vast difference there is between a “created being” and a “son.” Furthermore, baptism is not validated by the words “into creator and created (εἰς κτίστην καὶ κτίσμα),” but “into father and son (εἰς πατέρα καὶ υἱὸν),” so he must not be called “created being” but “son the lord.” They say “Is it not written?” Of

⁶⁴ On the “scope (ὁ σκοπός)” in Athanasius see James D. Ernest, “Athanasius of Alexandria: The Scope of Scripture in Polemical and Pastoral Context” My translation is adapted from his. Text *PG* 26.620a.

course it is written, as much must be admitted! But the heretics have a poor understanding of a good statement. For if they knew and understood the distinctive character of Christianity (τὸν χαρακτήρα τοῦ Χριστιανισμοῦ), they would not have called the Lord of glory a created being, nor would they find difficulty in what is written well.⁶⁵

The “distinctive character of Christianity” for Athanasius is pre-textual; interpreters must know the Orthodox tradition of interpretation in order to produce trustworthy knowledge. Part of that patrimony is to know that even when scripture says “the Lord created me,” the “me” that “was created” (ἐκτίσθη) is not “a created being” (κτίσμα). The grammatical point may be nonsensical, but for Athanasius, the christological point stands.

Here we see that Athanasius is indebted to epistemic positions traceable to both

⁶⁵ Ἄλλ’ ἐπειδὴ προφασίζονται τὸ ἐν ταῖς Παροιμίαις γεγραμμένον τὸ “κύριος ἔκτισέ με ἀρχὴν ὁδῶν αὐτοῦ εἰς ἔργα αὐτοῦ” καὶ ἐπιλέγουσιν ἑαυτοῖς “ἰδοὺ ἐκτίσθη καὶ κτίσμα ἐστίν!” ἀναγκαῖον καὶ ἐκ τούτου δεῖξαι ὅσον πλανῶνται, μὴ εἰδότες τὸν σκοπὸν τῆς θείας γραφῆς. εἰ μὲν οὖν υἱός ἐστι, μὴ λεγέσθω κτίσμα. εἰ δὲ κτίσμα, μὴ λεγέσθω υἱός. δέδεικται γὰρ ἐν τοῖς ἔμπροσθεν, ὅση διαφορά ἐστὶ κτίσματος καὶ υἱοῦ. καὶ ἐπειδὴ ἡ τελείωσις οὐκ “εἰς κτίστην καὶ κτίσμα”, ἀλλ’ “εἰς πατέρα καὶ υἱὸν κρατεῖ”, ἀνάγκη μὴ λέγεσθαι κτίσμα, ἀλλ’ υἱὸν τὸν κύριον. “οὐ γέγραπται οὖν;” φησί. ναὶ γέγραπται καὶ ἀναγκαίως εἴρηται. ἀλλὰ κακῶς νοοῦσι τὸ καλῶς εἰρημένον οἱ αἵρετικοί. εἰ γὰρ ἐνόουν καὶ ἐγίνωσκον τὸν χαρακτήρα τοῦ Χριστιανισμοῦ, οὐκ ἂν τὸν κύριον τῆς δόξης ἔλεγον κτίσμα εἶναι οὐδὲ προσέκοπτον τῷ γεγραμμένῳ καλῶς. *Letters to Serapion* 2.7. Text *AW*, 449-600.

Irenaeus and Tertullian. His definition of epistemic Orthodoxy stands in the gap between the two, and exploits strengths from each system, even though they are fundamentally incompatible. As I demonstrated in chapter three, Tertullian did not see scripture as a repository for truth, and held that its proper interpretation required assent to the *regula fidei*. In order to understand what scripture *says*, in other words, the exegete must already know what scripture *means*. Scripture is not a repository from which an able interpreter can extract truth: they must know it already. For Tertullian this pre-scriptural knowledge was the 116 words of the *regula fidei*, and for an older Athanasius it was the Creed of Nicaea.

But Athanasius also inherited a position from Irenaeus that Tertullian, however, fundamentally rejected. Namely, the idea that truth is fractal—it is a single picture into which one can infinitely zoom. If the seeker is equipped with the right tools and hermeneutic strategies, truth can be continuously refined, and examined to ever greater precision. The question of the relationship between the Father and the Son is epistemically discoverable, for Irenaeus and Athanasius alike. And, even while theological knowledge is progressively refined, the nature of the message remains singular.

Concerning the Decrees

A newly minted Nicene epistemology crystallized in and through Athanasius's scholarly work. In *Concerning the Decrees*, Athanasius argues that authoritative text has been distilled into the langue of Nicaea, and that the language of the distillate must be imposed as the authoritative framework for all subsequent reading. Creedal language was

reimposed on the authoritative text itself, rendering the words of scripture a simulacrum. Scriptural interpretation had become epistemically subsequent and methodologically ancillary. Through his polemics Athanasius achieved the irony of ironies: scriptural interpretation put itself out of business.⁶⁶

Pro-Nicene theologians were not the only polemicists who employed the “Nicene epistemology” for which Athanasius is our clearest example. The epistemology is “Nicene” in the sense that it is the structure of knowledge that was taken up by belligerents on both sides of the dispute. The epistemology that I have detailed here is the shared playing field of both “Nicene” and “Arian” polemicists in middle and later fourth century. It is the epistemology of the Nicene controversy, and not of one particular side.

Concerning the Decrees aims to construct a patrimony for the language of Nicaea, and to justify the use of non-scriptural terms within a creed that claims to distill the language of scripture into an authoritative statement. Athanasius’s treatise includes a

⁶⁶ Aloys Grillmeier has a more generous read on the situation, but structurally his understanding is the same as my own. “When we illustrate the new situation [after Nicaea] with regard to sources, it must not be forgotten that Holy Scripture, particularly the New Testament with its christology or major christological passages, always exercised influence as well. But no new exegetical method was discovered. It was only that the proof from Scripture acquired younger siblings who wanted to sit at the same theological table and seemed for a while to demand the larger portion, which, however, must never be claimed from the ‘first-born’.” Grillmeier, *Christ in Christian Tradition*, 2.1.20.

section of significant quotations of previous theological thinkers who use the “substance” language to speak of the relationship of the son to the father. He ends this section: “See, we are proving that this view has been transmitted to you from father to father. But you—latter-day Jews and disciples of Caiaphas—how many fathers can you assign to your phrases?”⁶⁷

In *Concerning the Decrees*, Athanasius extensively cites previous authorities to demonstrate patrimony for the Nicene “substance” language, modeling a form of aggregation that would become the scholarly norm in the decades to come. But the material form of Athanasius’s text also models a new epistemology based on aggregation. The work was not just a Christological treatise: it was the cover letter for a dossier. Athanasius appended a number of primary sources to the methodological exposition that we call *Concerning the Decrees*, beginning the text that was his main polemical adversary: Eusebius of Caesarea’s *Letter to the Caesareans*.⁶⁸ A valid demonstration of theological truth, in Athanasius’ estimation, required not only the sublimation of scripture to its distillate, nor even the demonstration of the Orthodox patrimony of one’s ideas. Valid knowledge required the aggregation of polemical referents, along with any material (supporting or otherwise) that bore relevance on the question at hand. I argue that

⁶⁷ Ἰδοὺ ἡμεῖς μὲν ἐκ πατέρων εἰς πατέρας διαβεβηκέναι τὴν τοιαύτην διάνοιαν

ἀποδεικνύομεν, ὑμεῖς δέ, ὧ νέοι Ἰουδαῖοι καὶ τοῦ Καιάφα μαθηταί, τίνας ἄρα τῶν
ρήμάτων ὑμῶν ἔχετε δεῖξαι πατέρας. *Concerning the Decrees* 27.4

⁶⁸ *Urk.* 22. Preserved as part of the textual tradition of *Concerning the Decrees*, and also in the *Ecclesiastical History* of Socrates (1.8.35) and Theodoret (1.12.1).

Athanasius' creative work in treatises like *Concerning the Decrees* set the standard for the production of valid theological knowledge.

It is precisely in this period, and in these letters, that Athanasius forged the polemical use of Nicene language. Only in the fourth century did "Nicaea's terminology gradually come[] to be equated with Nicaea's judgments."⁶⁹ Athanasius's polemic was predicated on the failure of scriptural interpretation, and the need to contrive an authoritative patrimony of unified, Orthodox voices in order to justify his own attachment to novel, non-scriptural language, and in order to respond to criticism that seemed to be coming at him from all sides.

The period between 350 and 367 were the most prolific of Athanasius's life. In these years he forged not only a new mode of argumentation, but also a literary reputation that led to his outsized influence on Nicene theological scholarship, and to his eventual canonization. Timothy Barnes lamented,

Were Athanasius a different type of man or writer, or had he not been an outlaw, it might have been possible to chart in his writings the changes of ecclesiastical alliances and to follow the moods of the eastern church in the tumultuous years between 357 and 360. For the most part, however, the exiled Athanasius of these years looked backward in bitterness rather than forward and ruminated on the grievances of the past in order to explain (and discredit) the persecution of the present.⁷⁰

⁶⁹ Ayres, "Athanasius's Initial Defense," 346.

⁷⁰ Barnes, *Athanasius and Constantius*, 122.

While I cannot chart with a Barnesian granularity the comings and goings of Athanasius during his most prolific period, I can say something about the work that he produced while he was on the lam. Athanasius' constant rumination on the past, looking grievously backward on the Council of Nicaea, and all of the perceived slights in the intervening years, shaped not only the Athanasius that was in exile, but the Athanasius who was remembered in the imperial court twenty years later as a "pillar of the church." There may be no more consequential sense of bereavement in the history of the book than what is visible in the literature, and the structure of argumentation, that crystallized during the period when Athanasius first became a formidable literary figure, whose work outlasted his own life. Athanasius's dogged defense of the language and theology of Nicaea, during this period, set the standard for Christian theological disputation in the years that followed. And this structure of knowledge quickly became customary. Within seventy years, the argumentative format that Athanasius pioneered in *Concerning the Decrees* was wholly naturalized for theological disputation. In 434, Vincent of Lerins wrote matter-of-factly about the proper production of theological truth.

"What then will a Catholic Christian do if a small portion of the Church has cut itself off from the communion of the universal faith?"...Then by all means it will be his charge to prefer the decrees of an ancient universal council, if there are any, to the rashness or ignorance of a few. "But what if some error arises on which no such decree is relevant?" Then he must collate and consult and interrogate the opinions of the ancients who, though living in various times and places, nevertheless remained in the communion and faith of the one Catholic Church, and appeared as commendable guides. One must understand that he himself is to

believe without any doubt or hesitation what has been openly, frequently, and constantly held, written, and taught not by one or two, but by all equally, with one consensus.⁷¹

Conclusion

In Athanasius's work we see a shift toward creedal statements distilled from authoritative material as ultimate arbiters of truth, as well as a focus on aggregation of previous scholarly material to demonstrate a patrimony for ideas that seem novel at first glance. This mode of argumentation came to be the standard scholarly tactic for knowledge production in the early years of the Theodosian dynasty—first in theological

⁷¹ “*Quid igitur tunc faciet Christianus catholicus, si se aliqua ecclesiae particula ab universalis fidei communione praeciderit?*” ...*Tunc omnio curabit ut paucorum temeritati vel inscitiae si qua sunt universaliter antiquitus universalis concilii decreta praeponat. “Quid, si tale aliquid emergat, ubi nihil eiusmodi reperiatur?” Tunc operam dabit, ut conlatas inter se maiorum consulat interrogetque sententias, eorum dumtaxat, qui diuersis licet temporibus et locis, in unius tamen ecclesiae catholicae communione et fide permanentes, magistri probabiles exstiterunt; et quidquid non unus aut duo tantum, sed omnes pariter uno eodemque consensu aperte frequenter perseueranter tenuisse scripsisse docuisse cognouerit, id sibi quoque intellegat absque ulla dubitatione credendum.* Vincent of Lerins, *Commonitorium* 3.4 Text CCL 64:150. Discussed in Rebillard, “A New Style of Argument,” 560; also in Vessey “Peregrinus against the Heretics.”

domains, and then everywhere. Pitched and often violent battles over Nicene orthodoxy during Athanasius's lifetime set the stage for a new kind of scholastic tribalism in which Nicene Christians insisted that an epistemology, born of polemic, was both true and universal.

It is no secret that the Theodosian dynasty was vehemently Nicene, and that the greatest influx of Christians into the ruling elite of Rome—the Old Rome and the New—occurred not under Constantine's auspices, but under Theodosius's.⁷² The tenacity with

⁷²Theodosius I was famously violent. See, for instance, the account in Sozomen,

Ecclesiastical History 7.25 of the Nicene emperor's massacre of a large, pre-determined number of randomly selected victims in retribution for the murder of one of his generals. Sozomen recounts the story of a father who successfully convinced soldiers to trade his own life for one of his sons. The soldiers, in Sozomen's words, replied that they could not accept a bribe to kill one person in lieu of two "because doing so would fail to attain the number" (ὥς ἐπιλείποντος τοῦ ἀριθμοῦ 7.25.5–6) of victims required by the emperor. Text GCS 50. The parallels to Hitler's massacre at Fosse Ardeatine are striking and chilling, and the incident was not unique:

Theodosius I reportedly ordered the indiscriminate slaughter of some 7,000 people in Thessaloniki as retribution for the stoning of local magistrates. Theodoret, *Ecclesiastical History* 5.17. Bloodthirst apparently ran in the family: Ammianus Marcellinus reports that during the so-called "Firmus war" (on which see Brent Shaw, *Sacred Violence*, 38–46), Theodosius's father ordered the rebellious Constantinian Infantry (*pedites Constantiniani*) "killed in the old fashioned way (*prisco more*

which Theodosian dynasts patronized Nicene Christianity is evidenced not only in the building of churches, the elevation of Senators, or the changing social mores regarding sex, family life, and Traditional worship. We see the effect of a particularly Nicene epistemology even in the structure, motivations, execution, and reception of Theodosian scholastic productions that do no theological work.

By way of analogy, let's engage with the judicial legacy of Antonin Scalia, the instigator and popularizer of a novel form of jurisprudence dubbed "originalism." Imagine that Antonin Scalia served 50 years on the Supreme Court under a single president who packed the courts with originalist judges: jurists who take up Scalia's procedural method even when they disagree with his substantive opinions. Twenty or thirty years later, it would not be terribly surprising if the "originalist" manner of argumentation found its way into new domains that have nothing to do with law.⁷³ In such

militibus dedidit occidendos)," while the Fourth Cohort of Mounted Archers (*equites corhortis quartae sagittariorum*) were subjected to killing except for their leaders, whose hands right hands were ritually severed. Ammianus Marcellinus, *History* 29.5.22. Text LCL 331, with adapted translation.

⁷³ In fact, there is a strong case to be made that the advent of judicial originalism was precisely the result of a fundamentalist shift in biblical interpretation among American Christians first, which proliferated in structure through the courts. Constitutional interpretation only came to have the structure of scriptural interpretation as a result of Scalia's pioneering work, and the widespread patronage of originalist judges by the Federalist Society beginning in the 1980s. Two useful

a world, “originalist philosophy,” or “originalist history,” or even “originalist journalism” might not seem so strange.

Similarly, during the Theodosian dynasty, a powerful patronage system led a structure of knowledge born of theological controversy to become embedded in the society. I argue that this epistemology is visible in Theodosian productions ranging from theological tractates to legal codifications to the *Palestinian Talmud*. “Christianization,” in this sense, is epistemic. Even when Athanasius’s opponents disagreed with his theological claims, they mirrored back his argumentative method. As I argue in chapter five, even when some great scholastic productions of the Theodosian Age reject or are ambivalent to Christian theological propositions, nevertheless we can see the effect of a Christianized epistemic framework in their form, content, and stated intentions. I turn now to the “rise of the code,” and to the changing shape of scholarship across the ideological spectrum during the Theodosian Age.

studies on this question have been published, one from legal scholars and one from a historian of medieval Christianity. They are, respectively, Smith and Tuttle, “Biblical Literalism and Constitutional Originalism”; and Jaroslav Pelikan, *Interpreting the Bible and the Constitution*.

Chapter 5—A New Order of Books in the Theodosian Age

Tools of the Trade: Aggregation, Distillation, and Promulgation

Leontius of Jerusalem was a strict defender of the theological advances of the fourth and fifth centuries. Writing from the Judean hills in the mid-sixth century, he inherited from his elders a Chalcedonian Orthodoxy along with a manner of argumentation that focused on compiling excerpts of authoritative theological scholarship from the past. He admits that his opponents find this to be a particularly aggravating tactic.

Here are exactly the kinds of things they'll offer in opposition to what we've said:

“Why do you, when you buzz around patristic texts like bees, harvest honey from whatever example pleases you, and continually bombard us with your buzzing about them, but fly right over others that are hostile to your purposes, darting away from them in silence?”¹

The bee metaphor is intriguing. Leontius describes his search for certainty as dramatically aleatory, predicated on the aggregation and distillation of authorized voices from the past—a sort of sentimental antiquarianism meant to lead the careful reader through a maze of scholarly material to an ultimate truth at the path's end.

Leontius was no innovator. In fact, his style of argumentation was already

¹ Leontius of Jerusalem, *Against the Monophysites*. PG 86.1849C. Translation Gray,

Leontius of Jerusalem. On argumentation and florilegia in the 6th century, see Gray,

“Through the Tunnel with Leontius of Jerusalem.”

traditional by the time that he wrote in the sixth century.² First and foremost, the metaphor of following the example of a bee when reading and digesting information transparently invokes Seneca's *Letter* 84, famous in its own day as it was in the sixth century.³ More importantly, already for nearly a century and a half, Christian scholars of the Nicene tradition had engaged in a practice of aggregation as foundational to the adequate demonstration of truth.

Scott Johnson recently described the move to collections of authoritative and/or discursive scholarly material in Late Antiquity, specifically in the fourth through sixth

² Some scholars have made the case that the tendency toward “publizistische Sammlungen” began only in the sixth century. The notion began with Eduard Schwartz, *Publizistische Sammlungen zum acacianischen Schisma*, 287; but it was taken up famously by Alois Grillmeier, *Christ in Christian Tradition*, 2.1.21. The idea has been repeated more recently by Gray, “Through the Tunnel with Leontius of Jerusalem: The Sixth-Century Transformation of Theology,” 189–90; and Viezure, “*Collectio Avellana* and the Unspoken Ostrogoths: Historical Reconstruction in the Sixth Century,” 95. These studies, useful though they are, do not undertake the work of understanding what came before in terms of citational practice; they take a feature of sixth century book culture and presume it to be novel. I demonstrate here that it is not—it is merely an expansion and transformation of a trend begun in the Theodosian era, and which has a clear intellectual lineage leading back to the Council of Nicaea.

³ Jerome invokes the same metaphor in his letter to Vigilantius. Jerome, *Letters* 61.1.

centuries, as “an aesthetic of accumulation.”⁴ Another way to describe the increasing centrality of aggregation as a precursor for valid scholarly work is as taking part in “the rise of the code.” Both will suffice as a description of the strange contours of late ancient book culture. But the description of an “aesthetic” should not be confused with an explanation for the shift to aggregation as a central scholarly method. With this chapter I describe the material and intellectual framing of Theodosian age scholarship. I also explain why aggregation came to be more than just an aesthetic choice commonly held across the Roman Empire. Aggregation, in the Theodosian Age, was an *expectation* held by producers of technical literature about what it looks like, and means, to do rigorous and worthwhile work.

These changes compounded from a shift in theological argumentation that I detailed in chapter four. I argue that the move to the aggregation as a foundational epistemic tool did not long remain strictly within the purview of Christian theological scholarship. Rather, the rise of aggregation, and the epistemology which underlies it, accounts for the rise of the code as a nexus of power and truth, as well as the shifting facets of Theodosian book culture outlined below. The Council of Nicaea blazed a path that led to the possibility of an authoritative and generative canon of scripture that yields to a tradition of interpretation, and ultimately to the possibility of a text like the *Theodosian Code*.

Interpretation and “Patristic commentary”

⁴Johnson, *Literary Territories*, 29-60.

Vincent of Lérins wrote for himself two *commonitoria*: *aides-mémoires* which lay out in unadorned language the method “how and by what sure (so as to say general and common [*quasi generali ac regulari*]) rule I might distinguish the truth of Catholic faith from the falsehood of depraved heresy.”⁵ Surveying the field of “men eminent in sanctity and in learning” he came to the conclusion that he could detect heresy and remain pure in his own faith with reference to two resources: first, the “authority of divine law (*divinae legis auctoritate*)” and “second, the tradition of the Catholic community (*deinde Ecclesiae catholicae traditione*).” Vincent insists that the latter—orthodox patrimony—is necessary to consult because the former, which he defines as “the canon of Scripture (*scripturarum canon*),” is unacceptably underdetermined.

Here perhaps someone will ask, “Since the canon of scripture is complete and is in itself sufficient and more for everything, what need is there to join to it the authority of the church’s understanding of it?” You see, all do not understand sacred Scripture in one and the same sense on account of its very depth, but each and every person interprets its statements in a different way, such that it seems that as many opinions can be extracted from it as there are people (*ut paene quot homines sunt, tot illinc sententiae erui posse videantur*).⁶

⁵ *quonam modo possim certa quadam quasi generali ac regulari via catholicae fidei veritatem ab haereticae pravitatis falsitate discernere*. Vincent of Lérins, *Commonitorium* 1.2 Text PL 50.637C

⁶ *Commonitorium* 1.2. Translation adapted from Ando, “Scripture, authority, and exegesis, Augustine and Chalcedon,” 216–7.

By the time of Vincent's late-life literary floruit in the 430s CE, scriptural interpretation had long since faded as a central and sufficient locus for the production of theological truth. In Vincent's estimation, as many interpretations could be extracted from scripture as there were people to perform the task, and if one's aim was to produce authoritative knowledge it was necessary to adjoin patrimony of the Catholic tradition to any textual argument. Vincent's contemporary Augustine, too, considered the strength of intellectual patrimony to lie precisely in its ability to account for, and exploit, the indeterminacy of scripture.

So when one person says "Moses meant what I mean," and another says, "by no means! He meant what I mean," I think that the more Christian response is, "why not both instead, if both are true, and if anyone sees in these words some third, or fourth, or any number of other true meanings... Certainly if I were writing something to the highest standard of authority...I would prefer to write in such a way that my words would communicate whatever truth each person could take on these subjects, rather than laying down a single true opinion about the subject quite openly, so as to exclude other opinions..."⁷

A generation before Augustine, Hilary of Poitiers understood the indeterminacy of scripture as the reason that Christian theologians of his generation fundamentally changed citational forms. It was precisely the failure of scriptural interpretation, and the proliferation of heresies in the years following the Council of Nicaea, that Hilary saw as the central, motivating factor underlying the remarkably new manner of scholastic

⁷ Augustine, *Confessions* 12.31(42). Translation LCL 27.

argumentation among Christians on the eve of the Theodosian Age. In generations past “You didn’t long for a scribe to write what you believed in your hearts, and professed unto salvation. As bishop you didn’t need to read the things that you held as new converts...”⁸ According to Hilary, an age of interpretative flexibility had not arisen before the upheavals of the 320s. As such, there was no need for the collection of interpretations and their distillation into creeds. He continues from above: “Necessity, however, introduced the custom of defining the faith and of signing on to the definition (*exponi fides, et expositis subscribi*).”⁹ Textual interpretation failed to settle debates about the relationship between the Christian Father and his Son, and creeds were introduced to perform the task that scripture was unable.

Hilary saw the production of truth as a project involving two primary operations: aggregation of a patrimony, then distillation of a universal statement of truth. And, he understood that this new form of argumentation arose because of new concerns following the Council of Nicaea.

You perceive that the truth has been sought by many paths through the advice and opinions of different bishops, and the ground of their views has been set forth by

⁸ *Neque officium manus ad scribendum desiderastis, qui quod corde a vobis credebatur, ore ad salutem profitebamini. Nec necessarium habuistis episcopi legere, quod regenerati neophyti tenebatis.* Hilary of Poitiers, *On the Synods* 63. Text PL 10.479–546B. Translations adapted from NPNF.

⁹ *Necessitas consuetudinem intulit, exponi fides, et expositis subscribi.* Hilary of Poitiers, *On the Synods* 63.

the separate declarations inscribed in this creed. Every separate point of heretical assertion has been successfully refuted. The infinite and boundless God cannot be made comprehensible by a few words of human speech. Brevity often misleads both learner and teacher, and a concentrated discourse either causes a subject not to be understood, or spoils the meaning of an argument where a thing is hinted at, and is not proved by full demonstration. The bishops fully understood this, and therefore have used for the purpose of teaching many definitions and a profusion of words, in order that the ordinary understanding might find no difficulty, but that their hearers might be saturated with the truth thus differently expressed, and that in treating of divine things these adequate and manifold definitions might leave no room for danger or obscurity.¹⁰

Hilary continues admonishing his reader: “You must not be surprised, dear brethren, that so many creeds have recently been written. The frenzy of heretics makes it necessary.”¹¹ In Hilary’s estimation, this structure of knowledge—aggregation of material followed by distillation into a creed or universal statement—is the baseline operation of any fight against heresy. As we saw above in the works of Vincent and Augustine and as we will see below in the works of Ambrose and Jerome, this change was predicated precisely on the indeterminacy of scripture, and the need to join the patrimony of the Catholic tradition to the results of scriptural interpretation.

Late ancient Christian scholars knew about and actively reflected upon the shift in

¹⁰ Hilary of Poitiers, *On the Synods* 62.

¹¹ Hilary of Poitiers, *On the Synods* 63.

Christian citational practices described above. Hilary wrote his *On the Synods* from the Latin West at almost precisely the same time that Athanasius wrote *Concerning the Decrees* from the Greek East. Each offers a genealogy for the shift to the “code” format that begins with the proliferation of false interpretations—interpretations predicated on the interpretative art itself, without recourse to the history of scholarship. In the work of Hilary and Athanasius alike, we see a coherent statement of the epistemology that will come to dominate nearly every piece of scholarship in the Theodosian Age. Both argue that truth can be found only by compiling the great diversity of opinions and distilling from that collection a universal statement which supersedes and governs the subsequent interpretation of its sources. We see, in other words, the invention of aggregation as a central scholarly tool. I turn now to the development and deployment of this tool.

Christian Aggregation

Among Christian scholars before and during the Theodosian Age, aggregation was more than a method: it was an epistemic operation. What I mean by this is that aggregation was not simply one-method-out-of-many by which an argument about universal truth could be made. Rather, aggregation was the necessary precursor to any such knowledge. It was the only way to produce universal truth reliably.

For example, theoretically one *could* produce a final statement of universal truth in theology, or in law, by fiat. If it were considered to be a reasonable method of accessing truth, then a final, unimpeachable statement could be handed down without supporting documentation from an accepted authority, like an emperor or a metropolitan bishop. It is simply the case, however, that no one in the Theodosian Age did so. Rather, among

Christians and eventually in “secular” domains, statements of universal truth were predicated on a collation of sources and on the aggregation of previous opinions about the subject at hand.

Jerome, writing in 415 CE, expresses an expectation that truth is predicated on aggregation in the strongest of terms—calling it among the “laws of commentary writing.”

Yet, while snoring in extreme dementia, he [Pelagius] failed to understand the laws of commentary writing (*leges commentariorum*), in which the divergent opinions of many people are cited (*multae diversorum ponuntur opiniones*)—sometimes leaving out their names and sometimes just mentioning them—so that it is left up to the judgement of the reader to decide which interpretation ought to be chosen as best.¹²

We likely will never know what comprises the full content of Jerome's proposed *leges commentariorum*.¹³ It is clear that he does not have in mind norms like those laid down by Tychonius, which have to do with the process of exegesis.¹⁴ Rather, the “laws of

¹² Jerome, *Commentary on Isaiah* 6.pro. Text PL 24.706A–707A. Translation adapted from Graves. Jerome writes further about the *praecepta dicendi* in *Letter* 108.3.

¹³ He glosses the term briefly in *Against Rufinus* 1.16, but never reflects on these “laws” in an extended manner.

¹⁴ Pharr, *The Theodosian Code*, 4n24. Pharr’s publication includes significant contributions by Theresa Davidson, the publication’s associate editor, which were insufficiently acknowledged by Pharr. Additionally, significant work on the edition

commentary writing” define scriptural commentary's proper textualized form. Jerome here is concerned with the *structure* of a proper commentary. His chief expectation is that many diverse opinions are offered in addition to that of the author, so that the discursive and commentarial tradition which forms the basis for authoritative statements of Orthodoxy can be investigated.

Jerome's expectation, that proper argumentation cites many diverse opinions, is echoed also in his commentary on Isaiah. Writing in 410 CE, he claims,

In discussing these, I have briefly summarized the discourses of Africanus the chronologist, Origen, Eusebius of Caesarea, and also Clement, a priest of the Alexandrian presbyter, and Apollinarius the Laodicean. Likewise those of Hippolytus, the Hebrews, and Tertullian. I left it to the reader to choose what to select from the many views presented... In any event, if I have called the men mentioned above ‘teachers of the church,’ they should understand: I do not approve the faith of them all (*me non omnium probare fidem*).¹⁵

Here, Jerome voices an expectation that aggregation is the proper method for scriptural commentary, but he also shows a concern for the eventualities brought about by this

was done by Mary Brown Pharr, in her capacity as assistant editor, and many of the Pharr edition translations were based on work done by Pharr’s (mostly female) students. For a full investigation of significant women’s work occluded in Pharr’s edition, see Linda Jones Hall, “Clyde Pharr, the Women of Vanderbilt, and the Wyoming Judge.”

¹⁵ Text *PL* 24.0377B. Translation adapted from Scheck.

method of argumentation. While he clearly expects that epistemically valid commentaries aggregate previous opinions and display them for the benefit of the reader, he is aware that writing a commentary in the form of an aggregative code involves promulgating false opinions that are not approved or endorsed by the author of the collection.¹⁶ In chapters seven and eight I return to this and other concerns stemming from the centrality of aggregation in the Theodosian Age. For now I simply note that fourth and fifth century commentators were cognizant of issues of discernment related to their chosen form of argumentation.

For Jerome, the function of a commentary is to collate interpretations, and to present them so that the reader, “like a good banker, can reject the money of spurious mintage”—opinions supported by poor evidence or insufficient reason.¹⁷ As Jerome

¹⁶This is not to say that any Orthodox authority can be called upon as an authoritative witness in the same sense. In *On the Merits and Forgiveness of Sins* 3.6.12 Text *CSEL* 60:138.11–16. Augustine cites Jerome, but as Éric Rebillard notes, “Jerome is called upon as a witness because of his expert knowledge of ecclesiastical writings, not because of his doctrinal authority.” Rebillard, “A New Style of Argument in Christian Polemic,” 567–8.

¹⁷“For what is the function of a Commentary? It is to interpret another man's words, to put into plain language what he has expressed obscurely. Consequently, it enumerates the opinions of many persons, and says, ‘some interpret the passage in this sense, some in that; the one try to support their opinion and understanding of it by such and such evidence or reasons,’ so that the wise reader, after reading these different

states, and as I will argue below, by the time that Jerome wrote his *Apology against the books of Rufinus* in the early fifth century, this was a common expectation of scholastic work even among Traditionalists, and scholars working in “secular” domains.

What I have done in that and other commentaries is to develop both my own opinion and that of others, stating clearly which are Catholic and which heretical. This is the custom of commentators and the rule of exegetes (*Hic est enim commentariorum mos et explanantium regula*): they give at length in their exposition the various opinions, and explain what is thought by themselves and by others. And this procedure is adopted not only by those who expound the holy Scriptures, but also by those who explain secular literature (*sed saecularium quoque litterarum explanatores*), whether in Greek or in Latin.¹⁸

explanations, and having many brought before his mind for acceptance or rejection, may judge which is the truest, and, like a good banker, may reject the money of spurious mintage. Is the commentator to be held responsible for all these different interpretations, and all these mutually contradicting opinions because he puts down the expositions given by many in the single work on which he is commenting?”

Jerome, *Apology against the books of Rufinus*, 1.6. Translations adapted from NPNF.

¹⁸ *Nos in commentariis, et illis et aliis, et nostram et aliorum sententiam explicavimus, aperte confitentes quae sunt haeretica, quae catholica. Hic est enim commentariorum mos, et explanantium regula, ut opiniones in expositione varias persequantur, et quod vel sibi vel aliis videatur, edisserant. Et hoc non solum sanctarum interpretes scripturarum, sed saecularium quoque litterarum explanatores faciunt, tam latinae*

Jerome's screed against Rufinus was occasioned by the latter's edition of Origen's *On First Principles*, which Rufinus claims to have purged from heretical interpolations in order to return Origen's text to its original, Orthodox state. Continuing from above, Jerome clarifies that Rufinus's error was not that he has included heretical opinions in his edition of Origen's *On First Principles*: including such material would be perfectly in line with the task of a commentator, or of a translator. Rather, Rufinus's sin was in cutting the heretical bits out! According to Jerome, what remains in the work, "whether good or bad, must be held to be part of the work—not of the author whom you are translating, but of you who has made the translation."¹⁹ Rufinus opened himself up to the charge of heresy by failing to stick to accepted Theodosian commentarial practices. Methodological aberration is not just gauche; it is spiritually risky.

Writing in the early 440s, Socrates "the Scholar (*scholasticus*)" considered aggregation to be a scholarly tool useful and necessary precisely for "searching out the truth (τὴν ἀλήθειαν ἀνιχνεύσαμεν)."²⁰ He produced two editions of his *Ecclesiastical History*. The first was intended for a general readership. It picks up on Eusebius of Caesarea's own *Ecclesiastical History*, emends errors introduced in Rufinus's Latin translation, and offers "simply the unadorned facts (γυμνὰ τὰ πράγματα) in order that the

linguae, quam graecae. Jerome, *Apology against the books of Rufinus* 3.11 Text PL 23.395–492A.

¹⁹ *vel bonum, vel malum dixeris, iam non ei imputetur, quem transfers, sed tibi qui interpretatus es.* Jerome, *Apology against the books of Rufinus* 3.11.

²⁰ Socrates, *Ecclesiastical History* 2.1.4. Text SC 477. Translations adapted from NPNF.

history might not become verbose, and weary the readers with tedious matters of detail.”²¹ The second edition, however, had a higher aim and a nobler audience: it was a work intended for a scholar. As such, this version was aggregative: it brought together a variety of sources without alteration, because this was the only way that Socrates thought work might be useful for another scholar.

But in the present edition such alterations and additions have been made for your sake Theodore, sacred man of God, in order that you might not be ignorant of what the emperors wrote in their own words, or of the bishop’s synodal pronouncements, where they continually refined the faith. For this reason we have inserted in this secondary compilation whatever we deemed necessary.²²

Socrates worked in the budding discipline of *Ecclesiastical History*. He had a few *exempla* upon which to base his own contribution to the genre, but there was no fully articulated methodology of the discipline, especially where it differed from ‘history’ as classically conceived and practiced. Eusebius self-consciously invented the genre in

²¹ ...αὐτὰ μόνον γυμνὰ τὰ πράγματα ὑπὲρ τοῦ μὴ πολυστίχου γινομένης τῆς ἱστορίας ὀκνηροὺς τοὺς ἀναγινώσκοντας ἀπεργάσασθαι. Socrates, *Ecclesiastical History* 2.1.5.

²² Ἐπειδὴ δὲ πρὸς σὴν χάριν, ὃ ἱερὲ τοῦ Θεοῦ ἄνθρωπε Θεόδωρε, καὶ τοῦτο ἔδει ποιῆσαι, ὥστε μὴ ἀγνοεῖν καὶ ὅσα αὐταῖς λέξεσιν οἱ βασιλεῖς ἐπέστειλαν ἢ κατὰ διαφόρους συνόδους οἱ ἐπίσκοποι τὴν πίστιν κατὰ βραχὺ μεταποιοῦντες ἐξέδωκαν, διὰ τοῦτο ὅσα ἀναγκαῖα ἡγησάμεθα ἐν τῇδε τῇ μετὰ ταῦτα ὑπαγορεύσει μετατεθείκαμεν. Socrates, *Ecclesiastical History* 2.1.6.

which Socrates worked, and claimed to bring together bits and pieces quite literally as a “συγγραφεύς”—one who collects facts into a narrative.²³ Eusebius’s introduction offers that “we shall attempt through historical narration to create a body (δι’ ὑφηγήσεως ιστορικῆς πειρασόμεθα σωματοποιῆσαι)” from such scattered sources as he is able to lay eyes upon. In his ‘first edition’ of the *Ecclesiastical History*, Socrates followed the Eusebian method to a large extent.²⁴

Socrates claims to have produced a first edition for the masses, one that has clear methodological resonances with Eusebius’s *History*. His ‘second edition,’ on the other hand, is no such work. Rather, this new version of the *Ecclesiastical History* is steeped in the scholastic trends of the Theodosian Age, and involves methods and aims foreign to the early fourth century, but right at home in the fifth. Furthermore, not only does Socrates diverge from Eusebius’s method in favor of a Theodosian mode of aggregation, he also faults his own sources for failing to do the same. He castigates Sabinus of Heraclea for putting together a dossier of conciliar material that is both impudent²⁵ and—

²³ See Eusebius, *Ecclesiastical History* 1.1.4–6.

²⁴ Eusebius, *Ecclesiastical History* 1.1.4.

²⁵ “Sabinus, head of the heresy of the Macedonians, gladly rejects these [authorities]. Oh!

He even calls those who were convened there [at the Council of Nicaea] laymen, and without knowledge; he runs the risk of accusing Eusebius of Caesarea himself of ignorance (Σαβῖνος δὲ ὁ τῆς Μακεδονίου αἵρέσεως προεστὼς τούτοις μὲν ἐκὼν οὐ προσέχει, ἀλλ’ ἰδιώτας καὶ μὴ ἔχοντας γνῶσιν τοὺς ἐκεῖ συνελθόντας φησίν, κινδυνεύων καὶ αὐτὸν τὸν Καισαρέα Εὐσέβιον ἐπὶ ἀγνωσίᾳ διαβάλλειν)!” Socrates,

worse yet—incomplete, because it failed to bring together both heretical and orthodox material.²⁶

Sozomen wrote his own *Ecclesiastical History* in the 440s, dedicated to Theodosius II.²⁷ He, too, echoes the notion that proper knowledge production is fundamentally based in aggregation. He had intended to “trace the course of events from the beginning (ἀπ’ ἀρχῆς),”²⁸ but upon reflection that such luminaries as Clement, Hegesippus, Africanus, and Eusebius had already treated such matters exhaustively, he decided rather to offer

Ecclesiastical History 1.9.28. Text SC 477. On Sabinus’s “Anti-Nicene” collection see Wolf-Dieter Hauschild, “Die antinizänische Synodalaktensammlung des Sabinus von Heraklea,” and on Socrates and Sozomen’s use of the source see Barnes, *Athanasius and Constantius*, 205–8.

²⁶“Sabinus however, of the Macedonian heresy, of whom we have already spoken, has not included the letters of Julius in his collection of conciliar materials, although he has not omitted that which the bishops of Antioch sent to Julius. But this is his custom: he assiduously introduces those letters that make no reference to, or wholly reject [the term] *homoousios* while he purposely passes over in silence those of a contrary tendency (ἐν οἷς μὲν γὰρ αἱ τῶν συνόδων ἐπιστολαὶ σιγῶσιν ἢ ἀθετοῦσιν τὸ ὁμοούσιον, ταύτας σπουδαίως παρατίθεται, τὰς δὲ ἐναντίας ἐκὼν ὑπερβαίνει).”

Socrates, *Ecclesiastical History* 2.17.10–11. Text SC 493.

²⁷The *terminus ante quem* of this text is thus July 28, 450, when the emperor died unexpectedly in an equestrian accident.

²⁸Meaning, from the time of Jesus forward.

only an abridged version and to focus on events beginning with the reign of Constantine.²⁹ Sozomen's work integrates much of Socrates's account, and adds to it a host of documents and oral sources, especially relating to ecclesiastical affairs of the mid-fifth century, in many of which Sozomen had been personally involved.

Sozomen's own approach to the production of an authoritative history wrestles both with the need to aggregate archival material in its original form, and he wrestles with the exigencies of the method itself; namely, if he were to bring together *all* the material which he surveyed, as was his original intent, the work would be too cumbersome to be useful. His response to this problem shows that he is intimately familiar with what is expected from him as a scholar.

I will record the events at which I happen to have been present, and concerning those which happened in our day or before our generation I learned from those having known or seen the events. Of earlier events I have sought for records among the archived laws appertaining to worship, among the records of the synods of the period, among the innovations that arose, and in the letters of emperors and clerics, of which some have been saved in imperial residences and in churches, while others are scattered, and in the possession of scholars. I considered often transcribing the whole of the texts, but on further reflection I deemed it better, on account of the cumbersomeness of the task (διὰ τὸν ὄγκον τῆς πραγματείας), to offer a synopsis of their rationale (τὴν ἐν αὐτοῖς διάνοιαν

²⁹ Sozomen, *Ecclesiastical History* 1.1.11–12. Text GCS 50. Translations adapted from NPNF.

συντόμως ἀπαγγεῖλαι). However, whenever disputed issues are introduced, I will readily transcribe freely from any document that may tend toward demonstration of the truth (παραθήσομαι ταύτην εἰς ἀπόδειξιν τῆς ἀληθείας).³⁰

Here we see Sozomen's extraordinary attention to documents, his intention to offer as many and as wide-ranging views as possible, and his conviction that on disputed topics, the range of documents should be allowed to speak in their fullness. It is clear that he has in mind the particular necessity to aggregate both orthodox and heretical opinions in disputed areas, because he moves on directly to criticize the failure of partisans—lesser historians—to do just that. Heretics fail to employ proper methods of knowledge production.

In order to demonstrate the correctness of their own theological ideas, both those inclined to this side and to the other side created a dossier of such letters as

³⁰ Μεμνήσομαι δὲ πραγμάτων οἷς παρέτυχον καὶ παρὰ τῶν εἰδότην ἢ θεασαμένων

ἀκήκοα, κατὰ τὴν ἡμετέραν καὶ πρὸ ἡμῶν γενεάν. τῶν δὲ περαιτέρω τὴν κατάληψιν ἐθήρῃσα ἀπὸ τῶν τεθέντων νόμων διὰ τὴν θρησκείαν καὶ τῶν κατὰ καιροῦς συνόδων καὶ νεωτερισμῶν καὶ βασιλικῶν καὶ ἱερατικῶν ἐπιστολῶν, ὧν αἱ μὲν εἰσέτι νῦν ἐν τοῖς βασιλείοις καὶ ταῖς ἐκκλησίαις σφύζονται, αἱ δὲ σποράδην παρὰ τοῖς φιλολόγοις φέρονται. τούτων δὲ τὰ ῥητὰ περιλαβεῖν τῇ γραφῇ πολλάκις ἐννοηθεὶς ἄμεινον ἐδοκίμασα διὰ τὸν ὄγκον τῆς πραγματείας τὴν ἐν αὐτοῖς διάνοιαν συντόμως ἀπαγγεῖλαι, πλην εἰ μή τι τῶν ἀμφιλόγων εὐρήσομεν, ἐφ' ὧν διάφορός ἐστι τοῖς πολλοῖς δόξα. Τηνικαῦτα γὰρ εἰ εὐπορήσω τινὸς γραφῆς, παραθήσομαι ταύτην εἰς ἀπόδειξιν τῆς ἀληθείας. Sozomen, *Ecclesiastical History*, 1.1.13–14.

avored their own heresy, omitting the ones contrary (οἱ δὲ ἐκείνοις προστιθέμενοι συναγωγὴν ἐποιήσαντο τῶν ὑπὲρ τῆς οἰκείας αἵρέσεως φερομένων ἐπιστολῶν καὶ τὰς ἐναντίας παρέλιπον)... As it is requisite to pay strictest attention to the means of eliciting truth in order to maintain historical accuracy (τὸ τῆς ἱστορίας ἀκίβδηλον), it seemed to me necessary to look extensively into any such documents of this type, according to my ability.³¹

It is of course inevitable that such dossiers will skew to one ideological pole or another, and Sozomen's own "collection" has a firm and thoroughgoing partisan agenda. At stake for my argument is not whether Sozomen, Socrates, or anyone else successfully lived up to their ideals; mine is a history of their ideals themselves. The acceptable form of scholastic truth production, for Socrates, Sozomen, and others in the Theodosian Age, was based in impartial aggregation.

The Proceedings of the Council of Ephesus (431)

Like Athanasius's *Concerning the Decrees* and Hilary's *On the Synods* some seventy years earlier, the *Proceedings of the Council of Ephesus (431)* were constructed to make a point. The *acta* from the July 22nd, 431 appear to supplement those from a

³¹ ...εἰς ἀπόδειξιν τε τοῦ δόξαι σέβειν ὀρθῶς οἱ μὲν τοῖς, οἱ δὲ ἐκείνοις προστιθέμενοι συναγωγὴν ἐποιήσαντο τῶν ὑπὲρ τῆς οἰκείας αἵρέσεως φερομένων ἐπιστολῶν καὶ τὰς ἐναντίας παρέλιπον....ἐπεὶ δὲ μάλιστα τῆς ἀληθείας ἐπιμελεῖσθαι χρεὼν διὰ τὸ τῆς ἱστορίας ἀκίβδηλον, ἀναγκαῖον ἐφάνη μοι, ὥς οἶόν τε ἦν, πολυπραγμονῆσαι καὶ τὰς τοιαύτας γραφάς. Sozomen, *Ecclesiastical History* 1.15–16.

month previous and, like *Concerning the Decrees*, constitute a dossier intended to establish a set of criteria: technical calques—not on scripture this time, but on the Nicene creed itself—in order to secure the condemnation of Nestorius, the bishop of Constantinople. The proceedings begin with a full presentation of the Creed of Nicaea before turning to the impetus for the meeting in the first place.

However, because some pretend to profess accordingly and to agree [with the Nicene creed], but in fact misinterpret the force of the ideas according to their own opinion and distort the truth (being sons of error and children of depravity), it has become absolutely necessary to introduce passages from the holy and orthodox Fathers that can give assurance in what way they understood [the Nicene creed] and had the confidence to preach it, in order that, clearly, all who hold the correct and irreproachable belief may also understand and interpret and proclaim it in that way.³²

³² ἐπειδὴ δὲ τινὲς προσποιοῦνται μὲν ὁμολογεῖν αὐτὴν καὶ συντίθεσθαι, παρερμηνεύουσι δὲ τῶν ἐννοιῶν τὴν δύναμιν ἐπὶ τὸ αὐτοῖς δοκοῦν καὶ σοφίζονται τὴν ἀλήθειαν, πλάνης ὄντες υἱοὶ καὶ ἀπωλείας τέκνα, ἐδέησεν ἀναγκαίως ἀγίων πατέρων καὶ ὀρθοδόξων παραθέσθαι χρήσεις πληροφορῆσαι δυναμένας τίνα τε τρόπον νενοήκασιν αὐτὴν καὶ κηρῶσαι τεθαρρήκασιν, ὥστε δηλονότι καὶ πάντας τοὺς ὀρθὴν καὶ ἀμώμητον ἔχοντας πίστιν οὕτω καὶ νοεῖν καὶ ἐρμηνεύειν καὶ κηρύττειν αὐτήν. *ACO* 1.1.7.74.4.15–20 (p. 89). Translation adapted from Price, “Conciliar Theology: Resources and Limitations,” 4. The dossier compiled in support of this creed, and condemnation, included not only patristic witnessed of the orthodox past, but also the

The First Council of Ephesus was held in 431, and its main task was to deal with the problem of unauthorized interpretation of the Nicene creed. Even in the run-up to the Council of Ephesus it was clear that heretical readings of the Nicene Creed could not be defended on the basis of the text of the creed alone. Cyril's *Third Letter* to Nestorius, written in late 430 immediately after a papal judgment against the latter and laying out the terms of his reconciliation, urges Nestorius to follow the "royal road" of patristic interpretation of the Nicene Creed, because his exposition of the text itself was heretically faulty. As Mark S. Smith put it, "A 'bare' confession of Nicaea, Cyril contended, was no longer sufficient for the authentic articulation of Nicene orthodoxy."³³ In the proceedings from June 22nd, Cyril went so far as to suggest that his own *Second Letter* should be "clearly established as the authoritative and necessary lens through which the Nicene

writings of Cyril of Alexandria, who would live for another thirteen years after this council. His own voice had been added to those of the patrimony while he was yet a working bishop, one of the few of his generation (or any generation in the fourth or fifth century) to achieve theologically dispositive relevance while he was still alive.

³³ Mark S. Smith, *The Idea of Nicaea in the Early Church Councils*, 54. He continues, "Cyril now implicitly accepted, in other words, that Nestorius could not be defeated on the basis of the text of the Creed alone. He thus sought to locate the hermeneutical key to reading the Creed faithfully not within the credal text, but outside it, in the writings of those fathers who had been guided by the same Spirit as the bishops who had assembled at Nicaea." p. 54–55.

Creed must be read, and the Creed itself rather drops out of view.”³⁴ After 100 years, in other words, the distillate of scripture had become so central to theological disputation that a new council was convened to deal with its own underdetermined nature.³⁵

Over the course of the fourth century, and into the fifth, we see a movement from primarily scriptural citation as central to the production of truth to a form of argumentation based in aggregation of various, sometimes competing interpretive voices. This movement has been described variously as “patristic citation”³⁶ or “patristic

³⁴ Smith, *The Idea of Nicaea in the Early Church Councils*, 65.

³⁵ “The simulacrum is true.” Baudrillard, *Simulacrum and Simulation*, 1. See also Mark S.

Smith’s recent *The Idea of Nicaea in the Early Church Councils*. Smith summarizes his argument thus: “The inherited shibboleths of Nicaea’s unique authority and sole sufficiency meant that every new articulation of orthodoxy had to demonstrate that its propositions derived from, and were faithful to, the teaching of the Nicene Creed. Yet, at the same time, the very inadequacy of the credal text to resolve the doctrinal disputes of a later age acted to stimulate fresh and creative uses of the Nicene tradition—strategies that sought more effectively to shape the malleable past to the needs of the present. In this way, we have suggested, ‘Nicaea’ was not only central to orthodox discourse during these years, but acted as both problem and solution, both generating conflict (because of its textual inadequacy and susceptibility to multiple interpretations), and, through its dynamic re-expression, providing the very means by which that conflict could be overcome.” p. 208.

³⁶ So Rebillard, “A New Style of Argument.” Rebillard localizes the shift to the period of

retractation.”³⁷ This change defines the fundamental shift in “patristic” literature after the Council of Nicaea, and especially in the Theodosian empire. But the move to “patristic retractation” is not merely a modern scholarly interpretation: late ancient scholars as well noticed that book forms, and forms of argumentation, underwent a revolution in the years after the council of Nicaea. Returning to Vincent’s *Commonitorium*, we see a Theodosian scholar struggling with the change in citational forms and the relationship between a new, Theodosian epistemic regime and an ancient, and (notionally) unchanging message.

But perhaps someone will say, “Is there to be no progress in the religion of the Christian church?” There is, clearly—and substantial! For who is there who is so envious of humans, and so hateful of God, that he would try to forbid it? But such

the so-called “Pelagian controversy,” at least in the works of Augustine. I hope to demonstrate below that Augustine’s method of “patristic citation” is in evidence at least a generation before, and that by the early 400s Augustine’s method was hardly novel.

³⁷ So Vessey, “The Forging of Orthodoxy.” “Only with the ‘Theodosian’ imposition of a supposed ‘Nicene’ orthodoxy which the creed and anathemas of 325 were by then inadequate to represent, did a new generation of theologians—not all strictly orthodox by later standards—begin to make a habit of arguing formally from what we should now call “patristic” texts. This turn of events, which historians of dogma tend to treat as inevitable and historians of literature to ignore, amounted to little less than a revolution in Christian literary practice.” Vessey, “The Forging of Orthodoxy,” 499–500.

progress must occur in such a way that it is truly progress in faith, not change! (*Sed ita tamen ut vere profectus sit ille fidei, non permutatio*) ...For there is a great difference between the flower of youth and the maturity of old age, and yet when old they remain the very same people as they were when young, in this sense, that although the stature and carriage of individuals change, nevertheless each person's nature is one and the same in every respect, likewise his or her character... And so it befits doctrine of the Christian religion to follow the same laws of progress (*ita etiam Christianae religionis dogma sequatur has decet profectuum leges*).³⁸

Here Vincent impresses upon his reader that the window dressing of scholarly disputation may change, so to speak, but the underlying message remains constant and universal. Hilary, too, thought that the Nicene Creed was timelessly true, but that it would require ongoing support and new arguments. Writing in 359 from the East, and addressing primarily Western bishops, he offered to send an account of all the creeds between

³⁸ *Sed forsitan dicit aliquis: Nullus ne ergo in ecclesia Christi profectus habebitur religionis? Habeatur plane et maximus. Nam quis ille est tam inuidus hominibus, tam exosus Deo, qui istud prohibere conetur? Sed ita tamen, ut uere profectus sit ille fidei, non permutatio...Multum interest inter pueritiae florem et senectutis maturitatem, sed idem ipsi fiunt senes qui fuerant adulescentes, ut, quamuis unius eiusdem que hominis status habitus que mutetur, una tamen nihilominus eadem que natura, una eadem que persona sit...Ita etiam christianae religionis dogma sequatur has decet profectuum leges.* Vincent of Lérins, *Commonitorium* 22.

Nicaea and Sirmium in hopes that he would have their support at “councils to come (*futuris synodi*),” the need for which was inevitable.³⁹

Throughout the late fourth and fifth centuries, Christian scholars were preoccupied with negotiating new book forms and new styles of argumentation, and attempting to square these radical changes with an ancient tradition of interpretation that is supposed to undergird unchanging, universal truths. When Christian scholars thought back on the changing forms of knowledge production in their generation and those before—from Hilary in the 350s to Vincent in the 430s—they saw the indeterminacy of Scripture as a motivating factor for the change. While the change was new to Hilary, and required both a genealogy and explanation, for Vincent the structure of knowledge in which aggregation is pivotal to the production of trustworthy knowledge was already an ingrained facet of his intellectual environment. Hilary, along with Athanasius and (to a lesser extent) Jerome, were innovators in the movement to patristic rather than scriptural citation, and to aggregation as a fundamental tool. By the 430s, however, this peculiarly Christian ideology of knowledge production could be read from just about any randomly selected product of elite scholastic knowledge. This is to say that a particular facet of Christian book culture in the mid-fourth century came to be a generalized facet of elite book culture by the early-fifth. Or, put differently: when Christians came into a ruling elite for the first time, Christian book culture became Roman book culture. I turn to these “secular” domains of knowledge production now.

³⁹ Hilary of Poitiers, *Book on the Councils of the East* 8. Text PL 10.486A.

Traditionalists

Christian theologians were not the only scholars who saw aggregation as central to accurate knowledge of the world. In fact, we see the extraordinary inter-implication of scholastic domains in the Theodosian Age by looking at the way that aggregation, as gateway to truth, underlies scholastic productions across the ideological spectrum. An epistemology that gave aggregation pride of place is visible everywhere from legal compilations to miscellanies during the Theodosian Age.

I begin my discussion of the particularly Theodosian nature of aggregation outside of theological scholarship by looking at Macrobius' *Saturnalia*. Macrobius composed his work of staggering antiquarian learning sometime in the 430s, but it does not stand alone.⁴⁰ Macrobius had an exemplar: Aulus Gellius' *Attic Nights*. Gellius pioneered the

⁴⁰Robert Kaster, *Macrobius: Saturnalia*, 1.xv-xviii. Arnaldo Momigliano distinguishes between the “historian” and “antiquarian” in modern parlance, though his definition holds for Varro and the few other ancient examples, as he notes. “...the word ‘antiquary’ suggests the notion of a student of the past who is not quite a historian because: (1) historians write in a chronological order; antiquaries write in a systematic order: (2) historians produce those facts which serve to illustrate or explain a certain situation; antiquaries collect all the items that are connected with a certain subject, whether they help to solve a problem or not.” Momigliano, “Ancient History and the Antiquarian,” 286. The essay includes a typically insightful history of antiquarian research, though he skips over the important contributions of Gellius and Macrobius, both.

form of Roman miscellany during the Antonine dynasty, and some two hundred years later, Macrobius picked up his rhetoric, and even the specific wording of Gellius's preface. Opening to a random page in either *Attic Nights* or *Saturnalia* will reveal remarkably similar material, in a similar form: extracts, culled from a wide variety of sources, placed together under (what intend to be) useful headings. But, as I argue below, the reason that each scholar took up his task could not be more precisely at odds.

Leontius of Jerusalem, with whom this chapter began, is not the only scholar to envision the search for truth as an apiary endeavor. Macrobius, too, introduced his work with an exhortation.

We ought to imitate bees, if I can put it that way: wandering about, sampling the flowers, they arrange whatever they've gathered, distributing it among the honeycomb's cells, and by blending in the peculiar quality of their own spirit they transform the diverse kinds of nectar into a single taste.⁴¹

Saturnalia is presented within a consciously literary frame, as dialogue between three great Traditionalist thinkers of the late fourth century—contemporaries of the likes of Ambrose and Jerome, and men of great wealth and imperial rank.⁴² The content of the

⁴¹ *Apes enim quodammodo debemus imitari, quae vagantur et flores carpunt, deinde quicquid attulere disponunt ac per favos dividunt et sucum varium in unum saporem mixtura quadam et proprietate spiritus sui mutant.* Macrobius, *Saturnalia* Pref.5. Text and translation LCL 510.

⁴² The principle interlocutors are Praetextatus, Symmachus, and Flavianus. It is almost certain that Macrobius never met any of these men, nor was he their contemporary.

book, however, is a series of extracts, things “initially noted down in a jumble” that were collated in order under headings useful for a reader in order that that they “might come together in a coherent, organic whole.”⁴³ Macrobius’ aim was to take the raw material of previous scholarship and collate it into an authoritative whole for his son. It is worth quoting him here at length; his justification for undertaking the project at hand should sound strikingly familiar.

We should draw upon all our sources with the aim of making a unity, just as one number results from a sum of individual numbers. Let this be the mind’s goal: to conceal its sources of support and to display only what it has made of them...

You know how a chorus consists of many people’s voices, and yet they all produce a single sound. One voice is high-pitched, another low, another in the middle, men are joined by women, a pipe is added to the mix: individual voices disappear while the voices of all are revealed, and the disparate tones produce a harmony. That is my goal for the present work: it comprises many different disciplines, many lessons, examples drawn from many periods, but brought together into a harmonious whole.⁴⁴

See the pioneering article by Alan Cameron, “The Date and Identity of Macrobius.”

⁴³ *Saturnalia* Pref.3

⁴⁴ *Ex omnibus colligamus unde unum fiat, sicut unus numerus fit ex singulis. Hoc faciat noster animus: omnia quibus est adiutus abscondat, ipsum tantum ostendat quod effecit... Vides quam multorum vocibus chorus constet, una tamen ex omnibus redditur. aliqua est illic acuta, aliqua gravis, aliqua media, accedunt viris feminae,*

Macrobius uses poetic and playful language to express the same sentiment over and again in rapid succession, impressing on his reader that the ultimate aim of his seven books of miscellany was to allow for a single, universal truth to proceed from the raw, aggregated material of an antiquarian's selection. All of Macrobius' extracts combine to express "a single flavor (*unius saporis*)" with a single underlying truth.⁴⁵

Comparison with Aulus Gellius' *Attic Nights* clarifies and magnifies the extent of overlap in conceptual framework between Macrobius and other Theodosian scholastic productions. Like Macrobius, Gellius wrote a preface explaining the form and goals of his work. While it is clear that Macrobius knew *Attic Nights* and patterned his *Saturnalia* on it, each author's rationale for aggregation could not be more starkly in contrast. Unlike Macrobius' miscellany, which aims to get at ultimate truth through carefully chosen

interponitur fistula: ita singulorum illic latent voces, omnium apparent, et fit concentus ex dissonis. Tale hoc praesens opus volo: multae in illo artes, multa praecepta sint, multarum aetatium exempla, sed in unum conspirata. Macrobius, *Saturnalia* Pref. 8-10

⁴⁵ Macrobius, *Saturnalia* Pref. 6. The question of Macrobius' Christianity is open, though Robert Kaster, makes a strong case that Macrobius was at least writing with a Christian audience in mind. Kaster, *Saturnalia*, 1.xxi-xxii. If it is true that he was Pretorian Prefect in 430, then his Nicene Christian allegiance is all but certain. (idem., 1.xviii) While Kaster is certainly correct that the *Saturnalia* is best understood in a Theodosian Christian context, the content of the work itself does not betray any substantive commitments that are obviously Christian.

excerpts from past authorities, Gellius claims that his books are intended “not so much to instruct, as to give a hint, and that content with my, so to speak, pointing out of the path, they may afterwards follow up those subjects, if they so desire, with the aid either of books or of teachers.”⁴⁶ As Joseph A. Howley notes, “...juxtaposition and open-endedness [are] typical of the [*Attic Nights*]'s functioning as a book not of answers, but of questions; though founded on scholarly research, its literary and interactive mode is not encyclopedic but protreptic, often demanding its reader finish the work it has begun.”⁴⁷

Macrobius used *Attic Nights* as a source, and in many places he goes to great lengths to mimic Gellius' preface. For instance, both stress that their writing is sub-par, and not favorably comparable with those excerpted.⁴⁸ But Macrobius repudiates other aims of Gellius's work—including, most importantly, the reason for undertaking such a production in the first place. Both antiquarians produced a miscellany by compiling diverse material from a variety of sources, but only the Theodosian scholar considered the format to be conducive to any epistemic aim beyond the virtues of miscellany itself. Macrobius' aim is truth, made visible through the scholarly process of aggregation, distillation, and systematic presentation, and he rewrote Gellius's preface to stress these

⁴⁶ *...non docendi magis quam admonendi gratia scripta existiment et, quasi demonstratione vestigiorum contenti, persequantur ea post, si libebit, vel libris repertis vel magistris.* Gellius, *Attic Nights* Pref.17-18. Translations are from LCL 195.

⁴⁷ Joseph A. Howley, *Aulus Gellius and Roman Reading Culture*, 9.

⁴⁸ Compare *Attic Nights* Pref.10 with *Saturnalia* Pref.11-12.

aims. Gellius, on the other hand, warns his reader “I have not made an excessively deep and obscure investigation of the intricacies of these questions, but I have presented the first fruits, so to say, and a kind of foretaste of the liberal arts.”⁴⁹

Aggregation, distillation, and systematic presentation are the central aim of another great scholastic production by Macrobius’s contemporaries. The compilers of the *Theodosian Code*, however, had aims even loftier than he. In 429 CE, emperors Theodosius II and Valentinian III tasked seven men of high imperial rank to aggregate, distill, and systematically present the tradition of legal pronouncements and the tradition

⁴⁹ *Non enim fecimus altos nimis et obscuros in his rebus quaestionum sinus, sed primitias quasdam et quasi libamenta ingenuarum artium dedimus.* Gellius, *Attic Nights* Pref. 13. A similar comparison might be made with Solinus’ 3rd century *Collectanea Rerum Memorabilium*, which similarly aggregates a wide variety of opinions from purposefully obscure sources (Pref.1.3. 62 authorities from 100 different works according to Mommsen, *C. Iulii Solini collectanea rerum memorabilium*, 237) and offers the collection to his patron Adventus as “*fermentum cognitionis*” (Pref.1.2)—“the leavening agent of inquiry.” The metaphor is strange, but its meaning is fairly clear: he brought forth a variety of opinions as something like a “foretaste of the liberal arts,” as Gellius put it. Later in the preface (1.5) Solinus does claim to aggregate authorities from the past in view of having “*opiniones universas*,” but to translate this as “universal opinions” would be a mistake. Rather, the context makes it clear that the force of “*universas*” is “collective...” or “the whole body of suppositions”

of legal scholarship from the time of Constantine’s conversion through their present day.⁵⁰ Unlike Macrobius, their aim was not just truth, nor did they aim merely to create of a resource for jurists strewn across an empire that stretched some 3,000 kilometers, though this was certainly a feature of the finished product. The imperial constitution calling for the creation of the *Theodosian Code* makes clear that the initial intention of this collocation and distillation of the patrimony of classical law was the production of a *magisterium vitae*—a comprehensive “guide for life.”

In chapter two I discussed the peculiarly Christian usage of the term “magisterium” that frames the aims of the second code as ordered in *CTh.* 1.1.5; I hope that the influence of Christian language and conceptual frameworks on the *Theodosian Code* is clear. Here I want to focus on the motivation for the *Theodosian Code* as initially ordered in 429, and on its method. The project was intended to comprise two steps: the creation of a scholarly resource, and the distillation of that resource into a universal statement. The first step was to use the method aggregation to create a resource for scholars, or in its words “for more industrious people (*diligentiores*).” The second step was to distill that scholarly resource into a “guide for life (*magisterium vitae*).”

The first step was envisioned as follows.

Although it may be simpler and more in accordance with law to omit those constitutions which were invalidated by later constitutions and to set forth only those which must be valid, let us recognize that this code and the previous ones

⁵⁰ One is hard pressed to think of another reason, institutional or logical, that the aggregation of constitutions should begin only in 312 CE.

were composed for more industrious people, to whose scholarly efforts it is granted to know those laws also which have been consigned to silence and have passed into disuse (*illa, quae mandata silentio in desuetudinem abierunt*).⁵¹

Here the eastern and western Emperors suggest that they could have ordered the *Theodosian Code* to include only statutes which had not been superseded by later legislation, but that the genre of the text as legal repository “for more industrious people” dictates the aggregation of *both* valid *and* invalidated laws.⁵² The technical, legal nature of the code defined expectations regarding its form; the expectation was that such a document should rightly aggregate all relevant sources, their validity notwithstanding. The *Theodosian Code* aimed not simply to offer an authoritative statement of what law *is*, though that was certainly part of the project, but also to codify a discursive and commentarial tradition into a clear statement of that tradition’s past; how the tradition got from one place to another, from the old laws “consigned to silence” to the statutes that superseded them.⁵³

⁵¹ *CTh.* 1.1.5. Emphasis mine.

⁵² As William Turpin put it, “One of the oddest things about the Roman law codes is that their contents could be inconsistent or out of date. This is most obvious in the case of *Theodosian Code*, which is more or less open about it...” Turpin, “The Purpose of Roman Law Codes,” 620.

⁵³ The “code” as a material form was of course well known in juristic domains by the time of the *Theodosian Code*’s compilation: the *Gregorian* and *Hermogenian* Codes similarly collected imperial constitutions under systematic headings. But these earlier

The second step envisioned by the *Theodosian Code* project was never undertaken. The same men tasked with creating the scholarly resource were intended to distill that work into a universally valid “guide for life.” It is not obvious that a legal codification could possibly serve such a noble goal. Caroline Humfress argues persuasively that “the *Codex Theodosianus* does not lay down the law; instead it provides its elite, specialist readers with the tools—epistemic and material—to produce their own ‘valid’ legal knowledge as defined by and through the Codex itself.”⁵⁴ In light of the Christian meaning of *magisterium vitae* for which I argued in chapter two, I would modify Humfress’s statement only slightly. The *Codex* as it comes down to us provides specialists with tools to produce their own valid legal knowledge, but the *Codex* as intended was meant to give all people the tools to produce their own valid knowledge in any domain of life. The idea that aggregation could serve as a method to produce a *magisterium vitae* would seem utterly foreign to someone like Aulus Gellius, whose aim in aggregation was simply “a kind of foretaste of the liberal arts.”⁵⁵ Much more proximate is the work of Macrobius, or Socrates, who saw in aggregation the possibility of truth.

The two-step process envisioned by the *Theodosian Code* is precisely the two-step process that we saw as early as Athanasius’s *Concerning the Decrees*, and which had

codes were not meant, or used, as a locus for the production of valid legal knowledge.

They were descriptive, not prescriptive, and they were never intended to be promulgated as the universal boundaries of the law.

⁵⁴ Humfress, “Ordering Divine Knowledge in Late Roman Legal Discourse,” 163.

⁵⁵ Gellius, *Attic Nights* Pref.13.

become *de rigueur* throughout the landscape of scholarly production in the eighty years since. The first step, for Athanasius and the *Theodosian Code* both, is aggregation of previous scholarly material, regardless of its validity or authority. It is this epistemic operation that Macrobius explicitly claims to be performing in his *Saturnalia*. The second step is distillation of that material into a universal truth. In the case of Athanasius this distillate was the Nicene Creed, while the Theodosian Code envisioned a *magisterium vitae*: after “men...of singular trustworthiness [and] most brilliant genius” have “exclude[d] every contradiction,” the laws were meant to be consulted as a “guide to life” in the same way that Christians were urged to pattern themselves after the lives of the saints.⁵⁶ The content and material of each of these projects is unique, but their aims and methods appear to proceed from a singular epistemology.

It was the Theodosian Age when this Christian structure of knowledge first found its way into non-theological domains. The example of Oribasius helps to make this clear. Oribasius was a doctor and a medical historian working from the court of Julian, serving as the emperor’s personal physician about two decades before Theodosius I ascended to the purple. One of his tasks was similar to what Athanasius was doing at the same time: bringing together scholastic patrimony—in this case, medical patrimony. But in the few works of his that survive, we see an aggregative method with radically different epistemic aims from the Theodosian Age examples.

In the introduction to his *Medical Compilations* (Ἱατρικῶν Συναγωγῶν), Oribasius relates that the emperor Julian instructed him to compile a corpus of epitomes from the

⁵⁶ *CTh* 1.1.5.

works of Galen alone, and thereafter to strike out on a more expansive second project.

The emperor ordered “that I should search for and collect the principal writings of all the best physicians and everything that pertains to the entire medical profession.”⁵⁷ He claims to be “zealously determined to carry out this task [of compilation], as far as [he is] able,”⁵⁸ because such a dossier would be “extremely useful, when people who are reading it readily discover that which in each case of efficacious for those who are in need.”⁵⁹

Oribasius created a scholarly tool at the behest of the emperor, bringing together previous sources of scholarship into a dossier meant to help the future practitioner of the medical arts. The language that he used around compilation, and even some of the compiler’s peculiar self-referential phrases, mirror strongly the method of Sozomen detailed above.⁶⁰ But the *aim* of the compilation could not diverge more radically. Oribasius intended to create a scholarly resource, but he had no expectation that a good

⁵⁷ ...πάντων τῶν ἀρίστων ἰατρῶν ἀναζητήσαντά με τὰ καιριώτατα συναγαγεῖν καὶ πάντα

ὅσα χρησιμεύει πρὸς αὐτὸ τὸ τέλος τῆς ἱατρικῆς. Oribasius, *Medical Compilations*

1.p.2. Translations adapted from Grant, *Dieting for an Emperor*. Text CMG 6.1.1

⁵⁸ τοῦτο πράττειν, ὡς οἶός τέ εἰμι, προθύμως διέγνωκα. Oribasius, *Medical Compilations*

1.pref.2.

⁵⁹ χρησιμωτάτην ὑπολαμβάνων ἔσεσθαι τὴν τοιαύτην συναγωγὴν, τῶν ἐντυγχανόντων

ἐτοιμῶς ἐξευρισκόντων τὸ ἐκάστοτε τοῖς δεομένοις ὠφέλιμον. Oribasius, *Medical Compilations* 1.pref.2.

⁶⁰ Such as “ὡς οἶός τέ εἰμι” in Oribasius 1.pref.2., See also Sozomen 1.15–16 “ὡς οἶόν τε ἦν”

argument, or worthwhile scholarly knowledge, required bringing together sources that were valid with those that were invalid. (Such a method would be no use to the invalid in search of a cure) He continues from above: “Thinking it superfluous and altogether absurd to include in the work the same things multiple times, both from the authors of the best treatises and of those who treated the subject without a similar degree of accuracy, *I will gather together only the works of the better sources.*”⁶¹ For Oribasius, scholarship is a work of curation even more than it is a work of compilation. His stated intent is to create a resource for other doctors that separates the wheat from the chaff, as it were. We see here no evidence that the aggregation expected from Christian Theological arguments in the mid-fourth century had found its way into the epistemic and methodological presumptions of a medical scholar writing from the imperial court of the last “pagan” emperor. As I argued above, this separation did not last long.

Traditionalist Rejection

There are three clear rejections of aggregation as a scholarly method from the Theodosian Age: the *Res Gestae* of Ammianus Marcellinus, the *Historia Augusta*, and Proclus’s *Ten Questions Concerning Providence*. And yet, through their rejections, scholarly productions from both chronological ends of the Theodosian Age witness

⁶¹ περιττὸν δὲ νομίσας εἶναι καὶ παντελῶς εὐηθὲς τὸ ἐγγράφειν τὰ αὐτὰ πολλάκις, καὶ τῶν ἄριστα συγγραψάντων καὶ τῶν μὴ ὁμοίως τὸ ἀκριβὲς ἐξεργασαμένων, μόνα τὰ τῶν ἁμεινον εἰπόντων συνάξω... Oribasius, *Medical Compilations* 1.pref.3. Emphasis mine.

further to the prevalence of a structure of knowledge in which raw material remains part of the final, scholarly product.⁶²

Ammianus finished his administrative and political history of the Roman empire in the early 390s, initially intending to write only 25 books covering the period from the accession of Nerva in 96 CE to the death of Valens in 378. He chose not to write about the most recent events “partly to avoid the dangers which are often connected with the truth, and partly to escape unreasonable critics of the work which I am composing.”⁶³ These “unreasonable critics (*intempestivos*),” in Ammianus’s estimation,

...cry out as if wronged if one has failed to mention what an emperor said at table, or left out the reason why the common soldiers were brought before the standards for confinement, or because in an ample account of regions he ought not to have been silent about some insignificant forts; also because the names of all who came together to pay their respects to the city-praetor were not given, and many similar

⁶² Ammianus’s *Res Gestae* is securely dated to the 390s CE. The *Historia Augusta* is, admittedly, of indeterminate date. I am persuaded however by the scholarly consensus (first articulated in Klaus-Peter Johne, *Kaiserbiographie und Senatsaristokratie*, 46) that the production as it stands today, and likely in original composition, must date to shortly after 395 CE.

⁶³ ...*et pericula declinentur veritati saepe contigua, et examinatores contexendi operis deinde non perferamus intempestivos*...Ammianus Marcellinus *Res Gestae* 26.1.1. Translation LCL 315.

matters which are not in accordance with the principles of history.⁶⁴

Ammianus's exasperation at what he is being asked to do is palpable. There are two ways to read Ammianus's concern about the criticisms that he is loath to incur by leaving out what he deems to be trivial details.⁶⁵ The traditional way to understand this passage (as evidenced by Syme,⁶⁶ for instance, and Sabbah's influential work on Ammianus's methodology⁶⁷) is that Ammianus simply rejects the idea that minor details are anything

⁶⁴ *...strepentes ut laesos, si p raeteritum sit, quod locutus est imperator in cena, vel omissum quam ob causam gregarii milites coerciti sunt apud signa, et quod non decuerat in descriptione multiplici regionum super exiguis silere castellis, quodque cunctorum nomina, qui ad urbani praetoris officium convenere, non sunt expressa, et similia plurima, praeceptis historiae dissonantia...* Ammianus Marcellinus, *Res Gestae* 26.1.1. On "gregarii milites coerciti sunt apud signa," see Letteney and Larsen, "A Roman military prison at Lambaesis, identified and contextualized among North African carceral practices."

⁶⁵ The difficulty of extracting a precise historical methodology from Ammianus' work is detailed in Guy Sabbah, *La méthode d'Ammien Marcellin*, 11–13.

⁶⁶ "Ammianus comes out with a powerful pronouncement in the preface of the last six books. History is not concerned with the petty details (he specifies some of them). They are alien to its tradition and dignity. History marches along the high places—'per negotiorum celistudines' (XXVI. I. I)." Ronald Syme, *Ammianus and the Historia Augusta*, 95.

⁶⁷ "On peut être assuré qu'Ammien ne croyait pas manquer à cette obligation suprême en

more than trivialities, while his own aim was to illuminate the character and actions of major players in the imperial orbit. This is the traditional way to understand a similar passage in the *Historia Augusta*'s recording of the *Life of Opilius Macrinus*, as well.

None the less, we shall bring forward what we have discovered in various historical works—and they shall be facts that are worthy to be related. For there is no man who has not done something or other every day of his life; it is the business of the biographer, however, to relate only those events that are worth the knowing.⁶⁸

There is another way to read both of these passages, however. An expectation of aggregation in rigorous scholarly work was visible across the literary landscape as seen

affirmant que l'historien ne doit retenir que les faits «dignes de mémoire».

L'invocation d'un critère de choix, la *dignité* du fait historique, discrète dans la première partie de l'oeuvre, prend une forme combative dans les six derniers livres : plusieurs déclarations condamnent le récit d'une poussière de faits, où l'on se perd dans les détails sans importance, et définissent la véritable histoire comme l'exposé des seules grandes lignes, des seuls faits saillants de la réalité." Sabah, *La méthode d'Ammien Marcellin*, 25.

⁶⁸ *Nos tamen ex diversis historicis eruta in lucem proferemus, et ea quidem quae memoratu digna erunt. non enim est quisquam qui in vita non ad diem quodcumque fecerit. sed eius qui vitas aliorum scribere orditur officium est digna cognitione perscribere. Historia Augusta, Life of Opellius Macrinus 1.1. Text LCL 140.*

Translations of the *Historia Augusta* are adapted from the Loeb, as well.

from Ammianus' and the author of the *Historia Augusta*'s vantage point. On the background of a dominant epistemology which insisted on reportage even of "trivial" details, these two Roman Traditionalist writers can be seen to reject a trend of aggregation which they knew all too well was taking over the literary, scholastic world.

Ammianus Marcellinus merely calls this obsession with aggregation an impulse of the *inscitia vulgari*—the ignorance of the masses, who require such trivial details, while his own project is more refined.⁶⁹ But in the case of the *Historia Augusta*, the author of the *Life of Opellius Macrinus* has a specific polemical target in mind. This other form of history writing, which Ammianus calls "vulgar," is a method undertaken by a historian named Junius Cordus, who is otherwise unknown outside of this citation in the *Historia Augusta*.

Junius Cordus, indeed, was fond of publishing the lives of those emperors whom he considered the more obscure. He did not, however, accomplish much; for he found but little information, and that not worth noting. He openly declared that he would search out the most trivial details (*minima*), as though, in dealing with a Trajan, a Pius, or a Marcus, it should be known how often he went out walking, when he varied his diet, and when he changed his clothes, whom he advanced in public life and at what time. By searching out all this sort of thing and recording it, he filled his books with gossip, whereas either nothing at all should be said of petty matters or certainly very little, and then only when light can thereby be thrown on character. It is character, of course, that we really want to know, but

⁶⁹ Ammianus Marcellinus, *Res Gestae* 26.2.

only to a certain extent, that from this the rest may be inferred.⁷⁰

It is possible that these concerns of Ammianus and the author of the *Historia Augusta* are simply aesthetic—they'd prefer not to read trivialities, or to burden their own literary inventories with useless knick-knacks. But the vitriol and the specificity of their polemic suggest a more precise aim in decrying aggregation of material as an acceptable format for historiography. The fact that just such a format was in vogue in the circles of elite Roman historiographers engaging in a peculiarly Christian epistemic operation suggests strongly that Ammianus and the author of the *Historia Augusta* did not have aesthetics in mind, but were reacting against a wider culture in which the expectation of aggregation was a central facet of the dominant epistemic framework. It was perhaps not lost on them, either, that the trend was embraced widely by the most visible and vitriolic sect of Christians.

In any event, the *Historia Augusta* claims to be a composite work, and does not witness a singular historiographical method. A very different method is evidenced in *The*

⁷⁰*Et Iunio quidem Cordo studium fuit eorum imperatorum vitas edere quos obscuriores videbat. qui non multum profecit; nam et pauca repperit et indigna memoratu, adserens se minima quaeque persecuturum, quasi vel de Traiano aut Pio aut Marco sciendum sit, quotiens processerit, quando cibos variaverit et quando vestem mutaverit et quos quando promoverit. quae ille omnia exsequendo libros mythistoriis replevit talia scribendo, cum omnino rerum vilium aut nulla scribenda sint aut nimis pauca, si tamen ex his mores possint animadverti, qui re vera sciendi sunt, sed ex parte, ut ex ea cetera colligantur. Historia Augusta, Life of Opellius Macrinus 1.3–5.*

Deified Aurelian: a method which Ammianus would certainly reject, and with which a Theodosian aggregator like Jerome would feel much more at home. The preface to this biography discusses precisely the type of aggregation to which Theodosian Christians, and other scholars, would accede.

“And yet, if I am not mistaken, we possess the written journal of that great man and also his wars recorded in detail in the manner of a history, and these I should like you to procure and set forth in order, *adding thereto all that pertains to his life*. All these things you may learn in your zeal for research from the linen books,⁷¹ for he gave instructions that in these all that he did each day should be written down. I will arrange, moreover, that the Ulpian Library⁷² shall provide you with the linen books themselves. It would be my wish that you write a work on Aurelian, representing him, to the best of your ability, just as he really was.”

I have carried out these instructions, my dear Ulpianus, I have procured the Greek books and laid my hands on all that I needed, and from these sources I have gathered together into one little book all that was worthy of mention. You I should wish to think kindly of my work, and, if you are not content therewith, to study the Greeks and even to demand the linen books themselves, which the

⁷¹ *lintheos libros*. No linen books survive from antiquity, but there is no reason to think that they did not exist.

⁷² This is a library in the Forum of Trajan, the most famous in Rome.

Ulpian Library will furnish you whenever you desire.⁷³

For the author of this *Life of Aurelian*, the little validity of his “little book” was based on its status as distillation of a great mass of material. The authority of the distillate, furthermore, did not depend on blind acceptance of the word of the putative author, but it was underwritten by the ongoing availability of the raw archival material. Aggregation is the necessary precursor to valid knowledge. It is telling that the author felt compelled to stress this point, and that his method was in-line with the dominant framework for producing truth.

In his study of prefaces in the *Historia Augusta*, Daniël den Hengst concluded that “the dominant impression after reading through the HA from beginning to end is one of bewildering variety.”⁷⁴ Not only does the text comprise a sensational mix of styles and

⁷³ “*Et tamen, si bene novi, ephemeridas illius viri scriptas habemus, etiam bella caractere historico digesta, quae velim accipias et per ordinem scribas, additis quae ad vitam pertinent. Quae omnia ex libris linteis, in quibus ipse cotidiana sua scribi praeceperat, pro tua sedulitate condiscas. curabo autem ut tibi ex Ulpia Bibliotheca et libri linteï proferantur. tu velim Aurelianum ita ut, est, quatenus potes, in litteras mittas.*” *Parui, mi Ulpiane, praeceptis, accepi libros Graecos et omnia mihi necessaria in manum sumpsi, ex quibus ea quae digna erant memoratu in unum libellum contuli. tu velim meo muneri boni consulas et, si hoc contentus non fueris, lectites Graecos, linteos etiam libros requiras, quos Ulpia tibi Bibliotheca, cum volueris, ministrabit.* *Historia Augusta, Life of Aurelian* 1.6–10. Emphasis mine.

⁷⁴ den Hengst, *The Prefaces in the Historia Augusta*, 158.

details, but it claims to be the work of six authors, each of which has a separate methodology underlying his historical work. Within the *Historia Augusta* as a whole we find “historians” who claim a Theodosian form of aggregation as central to their work, and others who reject such an operation out of hand, with specific polemical recipients in view. Whether the *Historia Augusta* is the work of one author or six, with one underlying generative framework and epistemology or many, one thing is clear: the effect of the compilation as a literary product is comfortably at home in Theodosian book culture, with all its variety of voices, opinions, aggregation of the admirable with the censurable, compilation of documents and archival material, etc. What we see in the sum total of the *Historia Augusta* as a literary product is a form of historiography that is explicitly disclaimed at some points within the text itself, and embraced elsewhere. We see the type of historiography that Ammianus despised as “vulgar,” and rejected as beneath the dignity of his project. In other words, in these literary products of the 390s we see reflected exactly an elite discussion about, and perhaps embrace of, the Christian epistemology of aggregation and distillation that is positively endorsed by the likes of Hilary, Jerome, and the compilers of the *Theodosian Code*. Interesting that we see this clearly in a text that is, in the words of Arnaldo Momigliano, “a first-class document of the reformed paganism of the fourth century.”⁷⁵

A thread of Traditionalist resistance runs the length of the Theodosian dynasty. Proclus was a Neoplatonic philosopher, a practicing lawyer, and one of the few outspoken Traditionalists in the orbit of the court of Theodosius II. He is known mostly

⁷⁵ Arnaldo Momigliano, “Popular religious beliefs and the late Roman historians,” 7.

for copious commentaries on Plato, but it is his *Ten Questions Concerning Providence* where he betrays most clearly the wider, Christianized intellectual environment in which he was writing, in the period around the death of Theodosius II (c. 450 CE). He begins his text with an apology, saying

Let us, then, interrogate ourselves, if that is all right, and raise problems in the secrecy of our soul and thus attempt to exercise ourselves in solving these problems. It makes no difference whether we discuss what has been said by previous thinkers or not. For as long as we say what corresponds to our own view, we may seem to say and write these views as our own. After all we have the ‘common Hermes’ as our leader, the same who is said to place in every soul the untaught preconceptions of the common notions.⁷⁶

Proclus appears to respond to an expectation of aggregation—precisely that he should “discuss what has been said by previous thinkers” on the topic of providence as a part of his own argument, and his own search for philosophical truth. As in the cases above,

⁷⁶*Age igitur, nos ipsos interrogantes, si videtur, et dubitantes in secreto anime, nos ipsos exercitare temptemus in solutionibus dubiorum, sive igitur dicta a prioribus, sive non, pertractemus, differentes nihil; donec enim placentia dicimus nobis ipsis, nostra utique et hec dicere et scribere videbimur, aliterque et communem Mercurium ducem habentes, qui et indocibiles preacceptiones communium conceptuum omni anime imponere dicitur.* 1(76).17–23. Medieval translation into Latin by William of Moerbeke (Gulielmus de Moerbecum), modern edition Helmut Boese, *Procli Diadochi Tria opuscula*. Translation Opsomer and Steel.

there are two ways to read this comment by Proclus. In their commentary on this passage, Opsomer and Steel suggest that here he offers nothing more than “a kind of apology for having copied [Plutarch’s] text almost shamelessly.”⁷⁷ Perhaps this is an explanation for this comment, which forms the last piece of Proclus’s preface. But ancient writers in general, and Proclus in particular, express little compunction about copying from their predecessors. Additionally, the passage doesn’t discuss culpability for copying one author in particular, but disclaims a requirement to “discuss what has been said by previous thinkers.” A more proximate explanation for the comment is that he is responding to typical scholarly practice at the time. Like the *Historia Augusta* above, we may reasonably read this passage as a response to the dominant epistemic model of the scholastic culture into which Proclus speaks: Proclus knows that others will expect him precisely to “discuss what has been said by previous thinkers,” and he retorts not only that he won’t be doing so, but that an argument structured as such would be beside the point because “after all, we all have ‘common Hermes’ as our leader (*communem Mercurium ducem habentes*), the same who is said to place in every soul the untaught preconceptions of the common notions.”

During the Theodosian Age, non-theological scholars from across the disciplinary spectrum engaged with what appears to be the dominant epistemology, which included an expectation of aggregation. Some embraced this new method while others rejected it. There appear to be no works of scholarship from the period, however, that do not address the issue at all. Even in their rejection, Proclus, the *Historia Augusta*, and Ammianus

⁷⁷ Opsomer and Steel, *Proclus: Ten Questions Concerning Providence*, 50.

Marcellinus speak to the expectation of aggregation that permeated their scholarly environment.

Post-Theodosian Collection or, The Shift to Florilegia

While the centrality of aggregation as an epistemic tool continued intact through the extent of the Theodosian Age, the post-Theodosian West saw yet another shift: this time away from notionally dispassionate aggregation of competing voices, to the collection of sources with explicit polemical and ideological aims. This distinction, between aggregation as an epistemic operation and collection of sources for admittedly polemical aims, is what separates the Theodosian order of books from what came after. The florilegia that so define the literary output of the post-Theodosian West are not intended for “more industrious types,” as the *Theodosian Code* might phrase it: collections of raw material from which truth may be distilled. Rather, they were intended as the distillation of truth itself. Whereas for a Theodosian scholar like Ambrose, or Macrobius, claims of universality necessarily involved aggregation of a wide variety of conflicting material, the “century of florilegia” that began in the Ostrogothic period involved scholastic production of a very different type. Leontius of Jerusalem, with whom this chapter began, inherited a focus on aggregation from his Nicene and Chalcedonian forebears. But he wrote nearly a century after the end of the Theodosian dynasty, a context alone which suggests that his opponents might have been right when they accused him of sampling tendentiously from the patrimony of the tradition rather than presenting a wide range of opinions as befits the scholar in search of universal truth. As is the case with Macrobius and Gellius, who perform a similar operation of aggregation for divergent purposes, the

Theodosian age scholars aggregating scholastic patrimony produced texts that look like later florilegia materially, but the stated intention of these two types of production couldn't be more distinct.

There was a durable shift in the material form of Christian scholarship toward end of the Theodosian age, and especially the controversy around and leading up to the Council of Chalcedon in 451. The rather abrupt arrival on the scene of what Schwartz dubbed “curated collections” began with the so-called *Collectio Novariensis de re Eutychis*.⁷⁸ Pope Leo's chancery collected materials from Roman archives in order to create a dossier that marked a new phase in Christian scholastic production, extended analysis of which is beyond the scope of this dissertation.⁷⁹ Other examples of the trend include Leo's own collection of letters known now as the *Leonis Papae I epistularum collectiones*,⁸⁰ and the more famous *Collectio Avellana*, a lacunose mid-sixth century collection of imperial and ecclesiastical letters and documents ranging from the year 368

⁷⁸ The German, “publizistische Sammlungen,” is notoriously difficult to translate adequately. Grillmeier, Viezure, and others have chosen simply to retain the German in order to emphasize the editorial action and polemical aim involved in producing these “collections.”

⁷⁹ *ACO* 2.2.1. The earliest known collection of this sort is a collection concerned with the Council of Ephesus in 431, and collected some time shortly thereafter. It is extant on an Ethiopic translation made c. 500, and published in Bernd Manuel Weischer (ed.), *Qerellos* vols. 1, 2, 3.1–3.

⁸⁰ *ACO* 2.4

to 553⁸¹ which offers a “a unique perspective on the history of the early sixth century” through selective presentation of documents relating to the papacy, the Ostrogothic court in Ravenna, and the Roman court in Constantinople.⁸² These collections bear a stronger resemblance to texts like Cassiodorus’ *Variae*, produced as public facing dossiers of material intended to instruct and persuade.⁸³ The dossier that Athanasius proposed, produced and appended to his *Concerning the Councils* looks materially like these later “curated collections,” and of course Athanasius collected and curated the material. But pre- and early-Theodosian productions have stated intentions fundamentally distinct from the *catenae*, “curated collections,” and *florilegia* that came to dominate in the post-Theodosian age.

This shift did not go unnoticed during the Theodosian Age, either. Writing for the Eastern court of Theodosius II in the early 440s, Sozomen recounts that his own access to the truth of matters surrounding “the dogmas of Arius and subsequent proposals” were

⁸¹ Published in two volumes by Otto Guenther as CSEL 35.

⁸² Dana Iuliana Vezure, “*Collectio Avellana* and the Unspoken Ostrogoths,” 94.

⁸³ Cassiodorus explicitly claims in his first preface to speak in a variety of styles (hence the title, *variae*) in order to persuade the widest possible cross-section of society to appreciate “both the difficulty of the labors undertaken by me for the public good, and the unbribed conduct of an upright person (*et laborum meorum molestias, quas pro generalitatis commodo sustinebam, et sinceris conscientiae inemptam dinosceret actionem*). Cassiodorus, *Variae* 1 pref.1. Text Mommsen.

obscured by purposeful failure to aggregate conflicting materials.⁸⁴ He complains, “in order to demonstrate the orthodoxy of their own dogmas, the partisans of each sect respectively formed a collection of epistles that favored their own heresy, omitting all hostile documents!”⁸⁵ Sozomen explicitly groups such texts together as a class, what I have been calling “curated collections,” and complains in the first chapter of his *Ecclesiastical History* that he was forced to busy himself with analysis of these faulty dossiers nevertheless, in order that he might have at least *some* access to the truth. “Still, as it is requisite, in order to maintain historical accuracy, to pay the strictest attention to the means of eliciting truth, I felt myself bound to examine all writings of this sort according to my ability.”⁸⁶ The shift to “curated collections” was a lamentable trend, according to Sozomen. And again, it was a trend that had its center of gravity in theological productions.

A shift to curated collections in support of one creed or another was of course not inevitable, but this historical movement was perhaps overdetermined already by the shift

⁸⁴ τῶν Ἀρείου δογμάτων καὶ τῶν ὕστερον ἀναφυνέντων. *Ecclesiastical History* 1.1.15.2–3.

Text GCS 50.

⁸⁵ εἰς ἀπόδειξιν τε τοῦ δόξαι σέβειν ὀρθῶς οἱ μὲν τοῖς, οἱ δὲ ἐκείνοις προστιθέμενοι συναγωγὴν ἐποιήσαντο τῶν ὑπὲρ τῆς οἰκείας αἱρέσεως φερομένων ἐπιστολῶν καὶ τὰς ἐναντίας παρέλιπον. Sozomen, *Ecclesiastical History* 1.1.15.8–1.1.16.1.

⁸⁶ ἐπεὶ δὲ μάλιστα τῆς ἀληθείας ἐπιμελεῖσθαι χρεὼν διὰ τὸ τῆς ἱστορίας ἀκίβδηλον, ἀναγκαῖον ἐφάνη μοι, ὥς οἶόν τε ἦν, πολυπραγμονῆσαι καὶ τὰς τοιαύτας γραφάς. Sozomen, *Ecclesiastical History* 1.1.16.2–4.

from scriptural interpretation to a focus on creedal language. By the middle of the fifth century, even the creeds which were intended to be a distillation of scripture, and its interpretative key, had undergone the same transformation that scripture underwent in the aftermath of the Council of Nicaea: they became hermeneutically impotent.

As discussed above, by the convening of the Council of Ephesus in 431, creeds had become so central that new scholastic productions were necessary which aggregated not the patristic disputation that led to the dogmatic affirmations held in the creed, but rather compilations which attested the history of creedal interpretation itself. In a supplement to the *Proceedings of the Council of Ephesus* condemning Nestorius, the Nicene Creed itself is presented and followed not by general theological disputation, as in Athanasius, but by *creedal* disputation, and extracts from the Orthodox fathers detailing how it is that they interpreted the creed itself. In the words of Richard Price, “Here, finally, the appeal to the Fathers moves to centre stage. Taking together the acts of 22 June and this supplement of 22 July, we may conclude that the First Council of Ephesus achieved its main work, the condemnation of Nestorius, not by theological ratiocination, but by establishing the criterion of orthodoxy, namely the Nicene Creed as interpreted by the great Fathers of the fourth century and definitively by Cyril of Alexandria.”⁸⁷ And, while the appeal to the fathers and the creation of scholarly resources to support particular readings of the Nicene Creed was effectively accomplished by the creation of this dossier, it was also formally legislated in canon seven of the Council of Ephesus, which declares that “no person may propose or even write or support a faith diverging from that created together

⁸⁷ Price, “Conciliar Theology: Resources and Limitations,” 4.

with the holy spirit by the holy fathers assembled in Nicaea.”⁸⁸

Conclusion

The assumption of aggregation, distillation, and promulgation as central epistemic operations spread from the wake of the Council of Nicaea, first among Christians and eventually across the entire spectrum of Theodosian Age scholarly production. Evidence of a dominant structure of knowledge inflected by Christian theological debates is visible from the works of Athanasius to those of Ammianus. Even when scholars reject the basic epistemic operations of aggregation and distillation, they witness its presence as a form, and perhaps the dominant form, of scholastic methodology.

I offer this analysis as a novel way of tracing what it means for elite Roman society to become “Christian.” Whether Macrobius is a Christian or not—and we have no reason to conclude strongly in either direction—his reformulation of the antiquarian format adopted from Gellius, and his redeployment of the format with new epistemic aims, points to the new and predominantly Christian intellectual environment in which he lived and to which he spoke.⁸⁹ Each of the examples in this chapter could be multiplied, and

⁸⁸ “ἐτέραν πίστιν μηδενὶ ἐξεῖναι προφέρειν ἢ γοῦν συγγράφειν ἢ συντιθέναι παρὰ τὴν ὀρισθεῖσαν παρὰ τῶν ἁγίων πατέρων τῶν ἐν τῇ Νικαέων συναχθέντων σὺν ἁγίῳ πνεύματι.” *ACO* 1.1.7.77.20–22 (p. 105).

⁸⁹ “In fact there is nothing in the Saturnalia that a Christian with antiquarian tastes and an elegiac cast of mind could not have written; and I am persuaded that Macrobius, like Phocas, was probably a Christian and was certainly writing for an audience he

each speak to a coherent shift in epistemology among works of Roman scholarship in the years after Christians first came to hold significant political power.

The assumption of a Christianized structure of knowledge in the Theodosian Age was not a one-off event, however, either socially or epistemically. The shift that I described above did not occur in the same way in all domains, nor did it occur at one moment. But a gradual change is a change nevertheless. The acorn does eventually become an oak tree.

The assumption of aggregation and distillation as central epistemic operations led to downstream changes in the way that scholars approached books: what they thought books did, how works of scholarship ought to look, and how they were to be encountered and assessed. These changes were not merely intellectual, confined to discussion in statements of purpose and programmatic methodological musings. We can see the effect of a new structure of knowledge in fifth-century manuscripts, and in the innovations in style and format meant to deal with the fact that scholarship in the Theodosian Age looked different than it had before. A new structure of knowledge is visible beyond just the minds and prefaces of Theodosian writers; it is visible perhaps most clearly in the pages presented to Theodosian readers. I turn now to trace the effect of shifting epistemology on the material remains of the Theodosian age. This project has an epigraph: “New readers of course make new texts, and their new meanings are a function

assumed to be Christian.” Robert A. Kaster, *Macrobius: Saturnalia*, 1.XXI–XXII. For a full discussion see Kaster’s introduction, *idem.*, 1.XXI–XXIV.

of their new forms.”⁹⁰ Chapter five has investigated the new readers; chapters six and seven investigate their new texts.

⁹⁰McKenzie, *Bibliography and the Sociology of Texts*, 29.

Chapter 6—New Bookforms

The Code(x)

The codes that I have discussed thus far all share a bookform: the codex. But homology obscures more than it enlightens. Etymologically “codification” refers to the transfer of a text into the codex format, but more often than not in contemporary usage it means something akin to “authorization.” While the *Theodosian Code* and the Christian bible both circulated in codex form, the format did not itself lend authoritative status to a writing, even though, as I will argue, it may have signaled a text’s authoritative status. This chapter attempts to untangle the reticulated categories of code and codex, and offer an account of how “codification” came to signify *both* “transfer to the codex format” and “authoritative promulgation of sources.”

From a very early period, Christians preferred the codex format for scriptural texts (mostly Greek editions of the Hebrew Bible), and for texts that would later become scriptures. The earliest fragment of the Gospel of John, for instance, is a small scrap of papyrus from a codex leaf that was copied somewhere in the second or early third century.¹ While Christians prefer the codex format for some of their texts², they neither

¹ TM 61624, commonly known among New Testament scholars as Papyrus 52. For a full accounting of the dating and significance of this fragment, see Nongbri, “The Use and Abuse of P⁵².” It must be noted that the earliest *securely dated* New Testament text is P.Dura 24, a parchment roll.

² It is notable that other early Christian texts, like homilies for instance, do not circulate in

invented the format, nor were they primarily responsible for popularizing it.³

Parchment and papyrus codices are first extant from the second century CE, though literary attestation of the format begins somewhat earlier, with Martial's *Epigrams*.⁴ The format appears to be Roman in conception, and its spread through the empire in the second through fourth century has been proposed as a serviceable index of Romanization.⁵ The parchment codex, and its less prestigious offspring the papyrus codex, are modeled on an earlier instantiation of the form: they are plastic approximations of the wooden *tabella*,⁶ famed for Roman use in applications ranging from legal promulgations (the so called *XII Tabulae*) to the ritual inscription of temple

codices any frequently than is expected from the wider cultural norm.

³ Roger S. Bagnall, *Early Christian Books in Egypt*, 70–78. See also Joseph van Haelst,

“Les origines du codex,” 14. For an account of the reason that Christians prefer the codex format for scriptural texts, see Larsen and Letteney, “Christians and the Codex: Generic Materiality and Early Gospel Traitions.”

⁴ Martial, *Epigrams* 1.2, 14.184, 14.190. (Perhaps also 14.186, 188, 192)

⁵ See Jean Gascou, “Les codices documentaires égyptiens,” 75–6; and a recent

restatement and expansion of the argument in Roger Bagnall, *Early Christian Books in Egypt*, 87.

⁶ Martial, *Epigrams* 14.7 “Parchment notebooks: imagine it to be wax, even though it is called parchment (*Pugillares membranei: Esse puta ceras, licet haec membrana vocetur*).” Text and translation LCL 480 See also C. H. Roberts, “The Codex,” 169.

boundaries.⁷ Elizabeth Meyer has demonstrated that the *tabella* was central to republican Roman ceremonial protocol, and was involved in “the ordering of state, religion, magic, legal procedure, and some legal acts”⁸ and possessed “certain performative, almost magical, powers.”⁹ I have written elsewhere with Matthew D. C. Larsen about the durability of what we called “generic expectations;” ancient and late ancient readers considered the codex form to signal certain genre-inflected features of the writings contained. The codification craze of the late fourth century cannot be considered without acknowledgement of the historical background upon which it occurred; the *tabella* was an object invested with potentiality for power in the Roman Republic, and in the later Empire the codex format retained some aspect of that ancient usage in the estimation of its users.

Tabellae, along with their conceptual offspring the parchment and papyrus codex, were not prestige objects in the first, second, and third centuries CE. The format was primarily reserved for provisional writings, para-literary texts, and for work that was not yet “finished,” and thereby ready for transfer to a prestige format like a bookroll or a bronze slab.¹⁰ By the Theodosian Age, however, the codex had been imbued with a new

⁷ On the ritual use of *tabellae* for marking off the boundaries of a *templum*, see Meyer, *Legitimacy and Law*, 24–45.

⁸ Meyer, *Legitimacy and Law*, 5.

⁹ *ibid.*, 6.

¹⁰ On the codex and provisional writing, see Larsen and Letteney, “Christians and the Codex,” 407–10.

set of expectations and associations. Not only was it the dominant format for all literary writing, but it was a prestige format associated with, and used to effectuate, universal statements of truth. Christians stand in the gap between the use of the codex format for provisional and paraliterary texts and the use of the codex for such monumental productions like the *Theodosian Code(x)*. Our earliest evidence suggests that Christians preferred the codex for their scriptural texts, even while other Christian texts like homilies continued to be copied and circulated in roll format.¹¹ When Christians came to power in the Theodosian Age, armed with a new epistemic outlook and a canon of scripture that circulated in codex format as universally true, the peculiar Christian perspective on the codex format transferred to other universal statements of truth that took the same shape. In other words, we can trace the Christianization of structures of power by following closely the shifting material expressions of power. The Christian epistemology that I have traced thus far can be followed further, into the physical instantiations of Theodosian scholastic works. The coalescence of “code” and “codex” into a single signifier is another effect of Christian ascendancy in the Theodosian Age.¹²

¹¹ For instance Princeton Garrett 24 (TM 128568), a palimpsested rotulus whose undertext is a *menaion* with a Christmas homily dated paleographically to the eighth or ninth century. On the other end of the temporal spectrum is P. Michigan 18 763 (TM 63857), a homily containing significant New Testament quotations that is nevertheless preserved on a roll that was copied between 150 and 250 CE. (Dates according to LDAB.)

¹² As put by Martin Wallraff, “Die Anwendung dieses Begriffs ist bekanntlich eine große

Christians and the Codex

Christians did not invent the codex, nor can they be said to popularize the form. But they were early adopters of the codex and used it almost exclusively to transmit “scriptural” texts, or texts that would become part of the Christian bible in time.

The “rise” of the codex was a slow process, and has been recently described as an “s-curve,” according to diffusion of innovations theory.¹³ Data from the Leuven Database of Ancient Books shows a slow debut for the codex starting in the late first century CE among extant manuscripts, most of which were found in Egypt.¹⁴ The format saw rapid

Erfolgsgeschichte; sie hat sich durchgesetzt und zu einer fast atemberaubenden semantischen Ausweitung geführt.” Wallraff, *Kodex und Kanon*, 26.

¹³ Harnett, “The Diffusion of the Codex.” Harnett’s analysis is thorough and well-considered, though the theory serves only to index the data, not to explain it.

¹⁴ The question as to whether books preserved in Egypt are representative for book production and consumption throughout the Empire is debated, and little can be said with certainty. The vast majority of our Egyptian papyri, which is to say the vast majority of our ancient books, come from the Fayum, Oxyrhynchus, or the area around Thebes. (See Yanne Broux’s masterful visualizations at <https://www.trismegistos.org/tm/ldab.php>) By way of example, in Oxyrhynchus the soil matrix most conducive to preservation is most consistently stratigraphically related to the second and third centuries CE. (Grenfell, “Oxyrhynchus and its Papyri,” 7–9.) The fact that papyrus finds in Oxyrhynchus peak in the second and third

adoption over the course of the third century, and the early fourth century witnesses two dramatic shifts: for the first time books on codices outpace rolls both in proportion, and in total number of extant exempla.¹⁵ (Figures 6.1 and 6.2)

centuries may be related to production, discard, or preservation; there is little way to adjudicate between the three. Roger Bagnall's warning remains of utmost import: "The documentary record is irreparably lumpy, mainly because of patterns of deposition, preservation, discovery, and editorial choice." (*Everyday Writing in the Graeco-Roman East*, 141.) Bagnall's warning about the prejudicial effect of editorial practices should be especially kept in mind: the dramatic rise of the codex as a percentage of second century papyri is at least partially due to consistent preference for publication of Christian finds before texts of a more quotidian, or less sensational nature. The extent to which Christian scriptural texts have outpaced publication of the rest of the Oxyrhynchus corpus is not a matter of public knowledge, and gatekeepers at the Sackler Library appear consistently uninterested in quantifying or publicizing the size or makeup of the remaining unpublished corpus. Nevertheless, the data as presented in the Leuven Database of Books is the best available, and relative trendlines which are the object of my analysis here are unlikely to change significantly with the publication of new texts.

¹⁵ Data was collected from the Leuven Database of Ancient Books on December 4, 2017.

The data was originally compiled by Yanne Broux, and is beautifully displayed in various visualizations on the Trismegistos platform.

<https://www.trismegistos.org/tm/ldab.php>. The dramatic drop off in Figure 6.2 is due

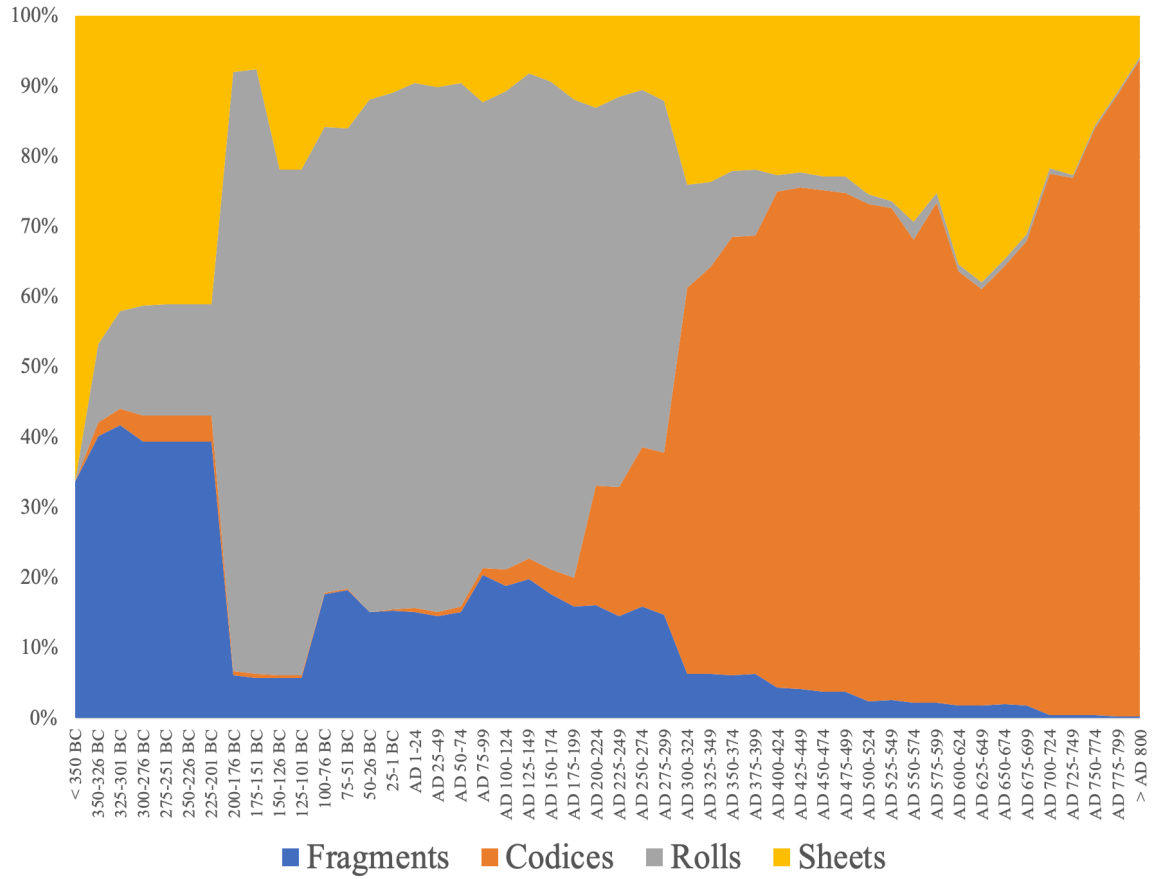


Figure 6.1. Relative proportion of book formats, 350 BCE–800 CE.

to the Leuven Database only collecting data on manuscripts dated before 800 CE.

Christianizing Knowledge

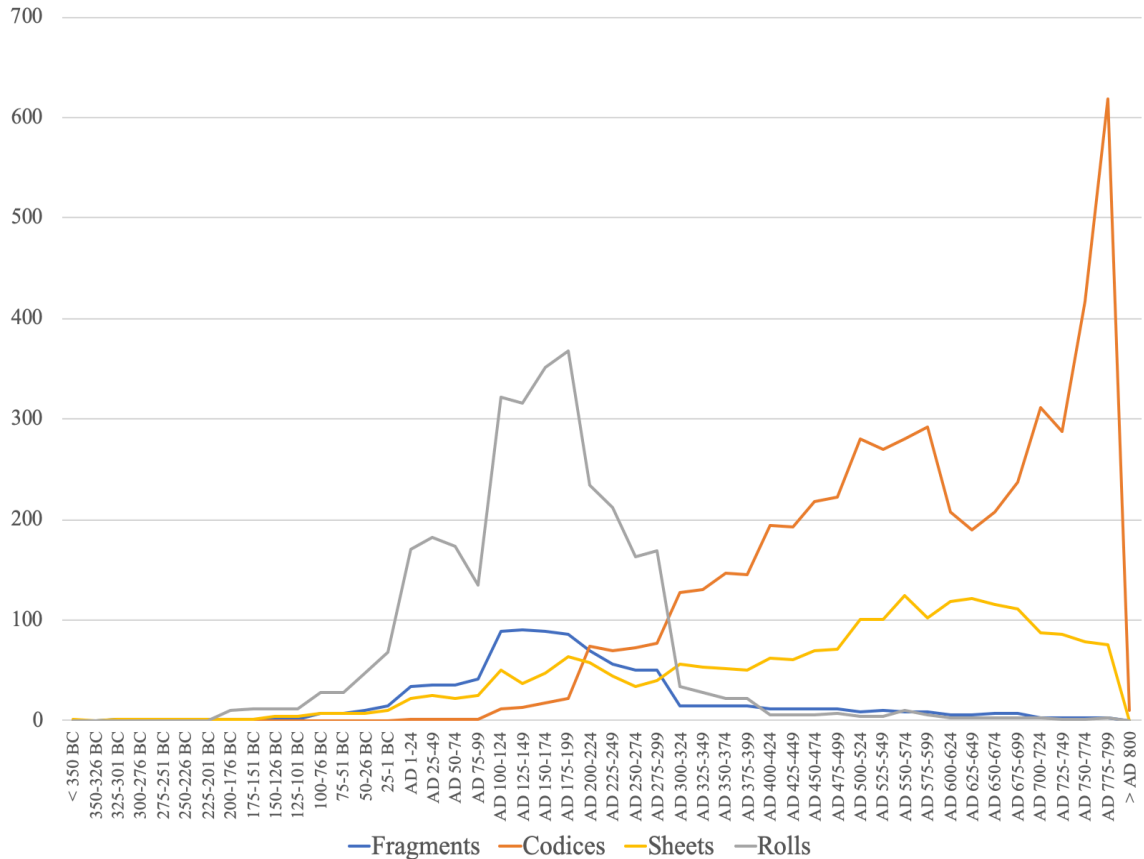


Figure 6.2. Books extant by format, 350 BCE–800 CE.

The codex format was traditionally associated with para-literary texts: medical treatises, astronomical books, and provisional writing. By the fourth century it was also traditionally associated, among Christians, with scripture. It is precisely the moment of overlap, when extant codices overtake books on rolls, that ancient readers began to use the codex for a new purpose: not everyday writing or provisional texts, but for deluxe editions.

The earliest known parchment deluxe editions were both created for Constantine: one on his request, and another as a gift. The gift was a presentation copy of poems by

Optatian.¹⁶ The literary quality of these poems is altogether unremarkable, but his collection made ample use of the codex format to offer pictorial poems in various visual forms: an altar (*Carmen* 27), an organ (*Carmen* 20), etc.¹⁷ One poem dedicated to the Emperor Constantine bears a christogram across the center of the work along with “IESUS” outlined in red across the composition.¹⁸ (Figure 6.3)

¹⁶ On the distinction between presentation copies, association copies, and deluxe editions, see Stephanie Ann Frampton, *Empire of Letters* 113–4.

¹⁷ A discussion of the history of pictorial poetry in the Greco-Roman world, and Optatian’s place in it, can be found in Marie Okáčová, “Publilius Optatianus Porfyrius: Characteristic Features of Late Ancient Figurative Poetics.”

¹⁸ Barnes, typically self-assured, argues for a precise date of 324 and a precise corpus of twenty poems (numbers 1–16, 18–20, and counting poem 23 as two poems and not one). Barnes “Publilius Optatianus Porfyrius.” The particular date and scope of the corpus doesn’t concern me here. Wallraff, *Kodex und Kanon*, 44 asserts that Optatian was a Christian “allenfalls *sensu latissimo*... (vermutlich nicht einmal dies).” If the question is whether Optatian *truly believed*, I have nothing to offer. His poems, however, are about as overtly Christian as any literature from the reign of Constantine.

Image removed due to copyright concerns

Figure 6.3. Bern, Burgerbibliothek codex 212, fol. 113. The complexity and visual nature of Optatian's composition obviate any concern that this 9th century copy is significantly different from that presented to Constantine in the early fourth century.

Constantine himself requested the other earliest known deluxe edition of a parchment codex, and the work carried out by Eusebius' Caesarean scriptorium sometime after 335. In a letter to Eusebius, the emperor requested "fifty volumes with ornamental

leather bindings, easily legible and convenient for portable use, to be copied by skilled calligraphists well trained in the art, copies that is of the divine scriptures.”¹⁹ Much has been made of this passage, especially since two fourth-century presentation pandects remain to this day: the so-called codices *Sinaiticus* and *Vaticanus*. It is certainly possible that these texts are related to the imperial order for “sacred scriptures.” Theodore Skeat has argued persuasively that these manuscripts came from the same scriptorium, and plausibly that they were produced under the direction of Eusebius for this very purpose.²⁰

¹⁹ ... πεντήκοντα σωμάτια ἐν διφθέραις ἐγκατασκευοῖς εὐανάγνωστά τε καὶ πρὸς τὴν χρῆσιν εὐμετακόμιστα ὑπὸ τεχνιτῶν καλλιγράφων καὶ ἀκριβῶς τὴν τέχνην ἐπισταμένων γραφῆναι κελεύσεως, τῶν θείων δηλαδὴ γραφῶν... Eusebius, *Life of Constantine* 4.36.2. Text GCS 7. Translation Cameron and Hall, *Eusebius: Life of Constantine*.

²⁰ Skeat, “The Codex Sinaiticus, the Codex Vaticanus, and Constantine.” Grafton and Williams note that Skeat’s hypothesis is “tempting, though by no means proven.” *Christianity and the Transformation of the Book*, 220. Grafton and Williams offer that the other plausible provenance for such prestige copies is Constantius’s commission of bibles from Athanasius (mentioned in his *Apology to Constantius* 4). I would add that the fourth-century dating of these codices is based solely on paleography, a notoriously inexact art; they could well be Theodosian. The suspicion is bolstered by comparison of scripts between Sinaiticus, which is almost exclusively judged to be a fourth-century bookhand, with Vatican Greek 1288. The scripts are nearly identical (on which see Cavallo, *Ricerche sulla maiuscola biblica*, 91–6), but the biblical texts

I will only note here that Constantine's order did not specify pandects of the "sacred scriptures" like we have in these two manuscripts, and there is some reason to believe that the pandect form was not typical, especially for bibles that were supposed to be "convenient for portable use," as Constantine's letter requests.²¹ Sinaiticus, at least, is not.²²

Canon and Codex

"Canon" and "codex" are easy to mix up. In fact, most scholars do mix them up, presuming that it was the act of binding scriptural texts together—codification—that assured the canonical status of material between the covers. This causes problems, both conceptual and interpretive.

are dated to the fourth century while the text of Cassius Dio is relegated to the fifth.

²¹ The same analysis holds for the "volumes of the holy scriptures (πικτῖα τῶν θείων γραφῶν)" which Athanasius claims to have sent to Constantius (c. 338) in *Apology to Constantius* 4. There is no reason to follow Skeat, "Codex," 591, in the presumption that Athanasius refers to pandects. In fact, the use of the plural πικτῖα more likely refers to "the holy scriptures" as a corpus transmitted in separate codices rather than in multiple pandect copies. Text *AW*, 2.8.

²² Gregory Allen Robbins, "Fifty Copies of the Sacred Writings," suggests that Codex Washingtonianus (Gregory-Aland W) is the closest extant parallel to the type of codex that Constantine requested, being a relatively modest size codex of four gospels in the "western" order on fine vellum and in a one-column uncial bookhand.

The use of “canon” (κανών) language to delineate a group of authoritative Christian texts is likely a legacy of Eusebius of Caesarea, who invoked the term in both of its common Roman usages, to mean both a measuring stick (and as such a Greek translation of the Latin *regula*), as well as in its technical sense to mean a set of tables.²³ Tables, or *tabellae* in Latin, also enjoy dual usage, meaning either a codex format book, as discussed above, or precisely “tables” in the modern English sense: aligned lists of information relevant to a particular topic.²⁴ The confusion among modern scholars between canon and codex arises out of these two words, and their flexible usage in

²³ Wallraff, *Kodex und Kanon*, 29. It is important to note that the section of Eusebius’s writings most often invoked to discuss his concept of “canon” (*Ecclesiastical History* 3.25) invokes no such language. “...Eusebius’s description of various categories of traditional text does not invoke either the term or the concept of ‘canon.’ Rather, Eusebius is engaged in defining a textual typology, each category of which invokes a different set of expectations, but none of which are coterminous with ‘canon.’” Letteney, “Authenticity and Authority,” 44–47. Irenaeus uses the term κανών τῆς ἀληθείας in *Against Heresies* 1.9.4, though he appears to mean by it a set of preceptual commitments rather than a clearly delineated group of textual sources, as I discuss in chapter three.

²⁴ In this sense of tables, we might expect the codex form to be at least the possible natural format, because tables (astronomical, etc.) were generally technical and paraliterary literature, which by the second and third centuries would generally be found in codices.

antiquity. We should not, however, presume that the modern confusion attains in the ancient world; it does not.

The canon of scripture in antiquity was not a codex. It was a list. Consider Athanasius's famous 39th Festal Letter, which delineated in 367 CE for the first time the canon of Christian scripture that came to dominate Catholic and Orthodox Christianity in the Middle Ages. Athanasius does not offer to his fellow clergy a codex of texts that are authoritative, but rather a list of books that are “canonized” (κανονιζόμενα—that is, listed as authoritative) and another list of books that are not “canonized” but nevertheless may be “read” (ἀναγινωσκόμενα) without objection.²⁵ Interestingly, Athanasius *does* have a sense of “order” (τάξις 73.4) pertaining to the books of the “Old Testament” (παλαιᾶς διαθήκης 72.26–73.1), while the books of the New Testament are offered only as an unordered collection. In the only place where Athanasius does suggest a certain “order” of books in the New Testament, he refers explicitly to the order in which Paul's letters

²⁵ “And so, beloved, the former (books) are canonized, while the latter are read. Nowhere are the apocrypha mentioned (Καὶ ὅμως, ἀγαπητοί, καὶ κεῖνων κανονιζομένων, καὶ τούτων ἀναγινωσκομένων, οὐδαμοῦ τῶν ἀποκρύφων μνήμη).” 75.26–76.3. Text Périclès-Pierre Joannou, *Les Canons des pères grecs*, 71–6. Even in a text like Canon 24 (Greek 27) of Carthage (originally from the Council of Hippo in 393, though promulgated at Carthage 418–9) says that only texts from the canon can be read in churches “*under the name of divine scripture*.” Likewise canon 59 of the Council of Laodicea (c. 365) says that only canonical texts can be read in a church setting, but canon 60 specifying what the canon comprises is of dubious authenticity.

were written (τῇ τάξει γραφόμεναι 74.14–15), and not the order that they are to appear in some unacknowledged codification of the canon. The canon of the Hebrew Bible, according to Athanasius, was a pre-ordered list, while the New Testament was a collection of titles.

The slippage between categories of “codex” and “canon” so common in modernity does not occur in antiquity. As Martin Wallraff has persuasively argued, in antiquity writ large, “where the bible was depicted, the thing depicted was not a book, but rather a bookshelf.”²⁶ The canon was first a list, and it continued as such for a long time.²⁷ It was not specifically a codex, but a list of books that were authoritative.

It was perhaps Eusebius, “a Christian impresario of the codex,” who first extracted the medium of the codex from its common association with provisional and everyday writing (*Fachliteratur*) and ennobled it to use in prestige projects.²⁸ Again Wallraff:

²⁶ “Wo die ‘Bibel’ bildlich dargestellt wurde, wurde daher nicht ein Buch, sondern ein Bücherschrank abgebildet.” Wallraff, *Kodex und Kanon*, 38.

²⁷ See, for instance, Codex Amiatinus 5r (c. 700 CE) which portrays the scribe Ezra rewriting the scriptures after the collapse of the Jerusalem Temple and specifically depicts the “canon” of the Hebrew bible as a bookshelf of individual books rather than as a single codex.

²⁸ On Eusebius as “a Christian impresario of the codex” see Grafton and Williams, *Christianity and the Transformation of the Book*, 178–232. Regarding Eusebius’s ennobling of the codex format, Grafton and Williams conclude, “If the chronological questions Eusebius and his anonymous helpers put were traditional, the answers he

With his magnificent staging of the Gospels Eusebius ennobled the medium of the codex, which had begun as a simple notebook and a shabby scratch pad, and definitively raised it to the rank of a representative. A carefully produced gospel codex of Eusebius's work shies away from no *comparandum*—in every respect: that of the sacred, the scholarly, or the aesthetic.²⁹

No example of this transformation of the codex from “shabby scratch pad” to prestige object is more striking than that of the authority and pride of place afforded to the biblical codex at the councils of Ephesus (431) and Chalcedon (451), where the presence of a gospel codex was the *sine qua non* of valid proceedings. The presentation of these copies of the sacred scripture at Theodosian imperial councils makes clear that the codex of scripture was an object of power itself, and it was emphatically not coterminous with the canon of scripture.

At the Council of Ephesus in 431, the gospel codex was considered to stand in for Christ himself. At the beginning of the *acta* from this council, the gospel book is presented, and the bishops in attendance come together “where the holy gospel lay in the

found glittered with methodological and formal novelty.” *idem.*, 230.

²⁹“Mit seiner großartigen Inszenierung des Evangeliums hat Euseb das Medium des Kodex, das begonnen hatte als einfaches Notizbuch und unansehnliche Kladde, geädelt und definitiv in den Rang des Repräsentativen erhoben. Ein nach Eusebs Arbeit sorgfältig gestalteter Evangelienkodex brauchte keinen Vergleich zu scheuen - in jeder Hinsicht: der des Sakralen, des Gelehrten und des Ästhetischen.” Wallraff, *Kodex und Kanon*, 43.

midst of the throne, and presented Christ appearing among us.”³⁰ At the council of Constantinople in 449, litigants swore on the gospel book itself,³¹ while at the Council of Chalcedon in 451 the presence of the gospel codex was a prerequisite for the commencement of any session.³²

In the Theodosian approach to scriptural codices we find a theology of bookish incarnation.³³ The codex had become a prestige object, capable of presenting the deity

³⁰ προκειμένου τοῦ ἁγίου εὐαγγελίου ἐν τῷ μεσαιτάτῳ θρόνῳ καὶ αὐτὸν ἡμῖν παρόντα Χριστὸν δεικνύοντος. *ACO* 1.1.3.4 (p.4).

³¹ *ACO* 2.1.1.640 (p. 158).

³² *ACO* 2.1.1.4 (p.65). See also 2.1.2.2 (p.92), where the *acta* record the requirement of the gospel codex being present before the fourth session can begin; 2.1.2.8 (p.93–4) where confessions of faith are made only in the presence of the “divine gospels”; the tenth session, where the gospel book is used as a sort of conch to signify the authority of the speaker *ACO* 2.1.3.20 (p.18); the eleventh session, where Bassianus recounts a fight that he had at the altar in his episcopal see with Memnon the bishop of Ephesus that led to blood being shed on the gospel book itself because of its placement on the altar *ACO* 2.1.3.14 (p.46); and the twelfth session, where the gospel book must be brought in before the session can commence. *ACO* 2.1.3.7–8 (p. 53–4).

³³ See also Epiphanius of Salamis: “The acquisition of Christian books is necessary for those who can use them. For the mere sight of these books renders us less inclined to sin, and incites us to believe more firmly in righteousness.” *Sayings of the Desert Fathers*, Epiphanius 8. Translation Ward, *The Sayings of the Desert Fathers*.

itself in time and in space. But the codices in mind in these examples are not pandects like Sinaiticus or Vaticanus. Rather, they are gospel codices, containing presumably the four “canonical” gospels in a single codex, and apart from the rest of the scriptural canon. Yet, despite the modern scholarly collapse of canon and codex into a single signifier, “nobody in Antiquity would have considered a gospel codex as a ‘partial edition’ of the New Testament.”³⁴

These examples give voice to the fissure between canon and codex that must be appreciated before the great codices of Late Antiquity can be properly understood. The canon was a list of books—books that could be codified—but that was not specifically defined as that-which-lays-between-the-covers-of-a-codex. Any discussion that collapses the two categories will necessarily run into methodological and interpretive dead ends.

Sinaiticus, perhaps the most famous codex from antiquity, has itself suffered the conflation of codex with canon in its interpretation. In his influential article “The Codex Sinaiticus, the Codex Vaticanus, and Constantine,” Skeat jumps right over the question of whether these pandects are intended to be presentations of the canon of scripture. The article undertakes a long discussion of Athanasius’ canon list in order to justify the presence of two non-canonical works (the Epistle of Barnabas and the Shepherd of Hermas) in Sinaiticus codex alongside a relatively standard “canonical” collection of scriptural texts.³⁵ For Skeat, the presence of Barnabas and Hermas in a codex with the

³⁴ “Niemals hätte in der Antike jemand von einem Evangeliar als von einer ‘Teilausgabe’ des Neuen Testaments gesprochen.” Wallraff, *Kodex und Kanon*, 39.

³⁵ Theodore Skeat, “The Codex Sinaiticus, the Codex Vaticanus, and Constantine,” 599ff.

“canonical” texts suggests that, for the user of Sinaiticus, Barnabas and Hermas were “canonical” too. But this is to confuse the issue, and to presume wrongly that Athanasius’s “canon” was his “codex.” It was not. The presence of non-canonical material between the same covers as canonical material, even among Orthodox Christians in antiquity, caused no compunction. Collections of “Christian” and “classical” material are known in manuscripts as early (or late, depending on one’s perspective) as the 4th century.³⁶ Neither did ancient Christians display any concern about the status of the pandect’s conceptual opposite—namely, codices of scriptural texts that did not include the entire canon between its covers. *Most* late ancient scriptural texts were transmitted piecemeal. Consider, for instance, P. PalauRib Inv. 181–183, which is a Coptic codex of the late fifth century containing the Gospels of Luke, John, and Mark.³⁷ Likewise P.

Skeat follows Kirsopp Lake’s discussion of the same in his facsimile edition. Lake, *Codex Sinaiticus Petropolitanus*, XVIff.

³⁶ The Bodmer papyri boasts an intact bifolium with a passage from the first chapter of the *Apocalypse of Daniel* copied next to the beginning of book six of Thucydides. This codex comes from what is likely a monastic or school setting (Nongbri, *God’s Library*, 208–211) and appears to have been discovered with a large cache of otherwise “christian” materials. *idem.*, 193–4. “...the classical works in the assemblage do not appear to be ‘relics’ at all. They are being copied simultaneously with clearly Christian material. They are an integral part of the collection.” *idem.*, 209.

³⁷ TM 107760 + 107904 + 107905.

Bodmer 3 is a fourth century Coptic codex containing only the Gospel of John and Genesis,³⁸ while P. Bodmer 18 contains parts of the Gospel according to Matthew and Paul's Letter to the Romans, and was copied in the second half of the fourth century or the first half of the fifth.³⁹ From the fourth and fifth century, not one example⁴⁰ survives of a codex of Christian scripture that contains *only* the texts listed in any known canon from the period, including the famous fourth century pandects that are so often hailed as ancient Christian "bibles."⁴¹

³⁸ TM 107758.

³⁹ TM 107759.

⁴⁰ The only possible contender is Codex Vaticanus, which itself is incomplete. Any reasonable historical methodology would express caution in suggesting that an incomplete piece of evidence points to an unprecedented historical phenomenon.

⁴¹ This insight necessarily complicates unnecessarily simplistic accounts like that of Robert Kraft. "That is, 'biblical canon' took on a very concrete meaning in the shadow of the appearance of the Bible as a single book in codex form." Kraft, *The Codex and Canon Consciousness*, 230. Already in the late nineteenth century, Theodor Zahn argued that it was precisely the difficulty of use that allowed for preservation of the famous fourth and fifth century pandects. "Die Größe und Schwere solcher Bibeln machte sie unhandlich und besonders für den regelmäßigen Gebrauch im Gottesdienst unbequem. Sie wurden wenig gebraucht und abgenutzt und blieben eben dadurch mehr als andere vor der Zerstörung bewahrt." Zahn, *Geschichte des neutestamentlichen Kanons*, 1.61.

In the fourth and fifth centuries codices commanded respect and power, but they were not coterminous with canon. Skeat's assumption of Athanasius's "two categories" (κανονιζόμενα and ἀναγινωσκόμενα) itself breaks down, and Skeat admits as much, though without allowing that the analysis itself may be at issue. "Sinaiticus includes some which Athanasius does not include in either of his two categories, viz. 1 and 4 Maccabees in the Old Testament and the Epistle of Barnabas in the New."⁴² The fact is that most biblical books that we know from the fourth and fifth centuries are *not* pandects like Sinaiticus or Vaticanus. And yet, most analyses of these pandects, and of Constantine's request to Eusebius for fifty copies of "the sacred scriptures," presume precisely that "scriptures" are those which are contained in a codex.⁴³ Skeat hastily jumps from the list of "holy scriptures" in Athanasius to the presumption that any request for such books would necessarily include all within the covers of a single codex.⁴⁴ Even Harry Gamble confused the issue, by justifying that the books dispatched to Constantine likely contained the four canonical gospels alone, on the basis that "the scope of the Christian Bible was still variable in the early fourth century."⁴⁵ It may well be the case that the "sacred scriptures" dispatched to Constantine contained only gospels.⁴⁶ But the reason

⁴² Skeat, "The Codex Sinaiticus, the Codex Vaticanus, and Constantine" 601.

⁴³ Eusebius, *Life of Constantine* 4.36.2.

⁴⁴ Skeat, "The Codex Sinaiticus, the Codex Vaticanus, and Constantine," 605n28.

⁴⁵ Gamble, *Books and Readers*, 159.

⁴⁶ Lightfoot, *Horae hebraicae et talmudicae in quatuor Evangelistas*, 1.1037, suggests that the books mentioned by Eusebius may have been *harmonia concorporatis*,"

that the this is possible is not because the canon was underdetermined. The reason is that a codex did not contain the canon.

The above examples show that the codex in antiquity was not conceptually considered to comprise the canon. But they show something more: that scriptural codices possessed an excess of vitality, beyond their function as inert vehicles for the transmission of text.⁴⁷ In the impossibly elegant words of Martin Wallraff, “The late-antique book thus achieves a depth of meaning that extends far beyond the function of writing and reading. It is more than text carrier. There is an excess of meaning, of effort, of medial impact, which transcends the contained and transmitted text and does not exhaust itself through reading. The book not only contains letters (*Zeichen*), but it becomes a sign (*Zeichen*) itself.”⁴⁸

referring either to exquisitely produced gospel harmonies or, as suggested by Robbins’s reading, “gospel lections.” Cited in Robbins, ““Fifty Copies of the Sacred Writings,”” 92. For his part, Robbins notes that “It now appears that [in the fourth century, pandects] were never more than curiosities.” *idem.*, 97.

⁴⁷ On vitality in textual traditions, see Hindy Najman, “Reading Beyond Authority.” “To acknowledge certain texts as scriptural is to recognize them as possessing an excess of vitality, more life than ordinary texts, and it is the nature of life to generate life, to sustain and reproduce itself. Insofar as Scripture is authoritative, it is also generative. The authority of Scripture should focus our gaze also on this excess of vitality, that which is generated by and beyond the authority of the text itself.” *idem.* 24.

⁴⁸ “Das spätantike Buch gewinnt damit eine Bedeutungstiefe, die über die Funktion des

For many Theodosian Age productions, the codex form itself signaled the authority of the materials presented within. In the words of Serena Ammirati, in the Theodosian Age “...both the law of God and the law of people need to be put into writing, and their ‘scriptural’ authority receives external confirmation from the idea of authority intimately connected with the new format [of the codex].”⁴⁹ Ammirati goes further, arguing that

Schreibens und Lesens weit hinausgeht. Es ist mehr als Textträger. Es gibt einen Überschuss an Sinn, an Aufwand, an medialer Wirkung, die den enthaltenen und tradierten Text transzendiert und sich nicht im Lesen erschöpft. Das Buch enthält nicht nur Zeichen, sondern es wird selbst zum Zeichen.” Wallraff, *Kodex und Kanon*, 48. In James W. Watts’s estimation, scriptures are definitionally “material objects that convey religious significance by their production, display, and ritual manipulation,” (11) and further that “scriptures are produced by ritualizing their three dimensions—semantic, performative, and iconic...” Watts, “The Three Dimensions of Scriptures,” 17. Watts’s definition of scripture holds, but it may be overdetermined by the late ancient process of objectification of biblical texts described here.

⁴⁹ “...sia la legge di Dio che la legge degli uomini necessitano di essere messe per iscritto, e la loro autorità ‘scritturale’ riceve ulteriore conferma dall’idea di autorità intimamente connessa con il nuovo formato.” Ammirati, *Sul libro latino antico*, 85. (The beginning of this quotation is below.) For her part, Ammirati argues that the decisive shift toward the codex itself as authoritative object arose out of competition between Christian (and one would expect, thus, theological and biblical) and “pagan-judicial” domains throughout the fourth century. “Proprio negli studi romanistici,

even the choice of the uncial script—the same as was used in contemporary scriptural codices—signaled to the reader the universalizing aims of the Theodosian legal codification.⁵⁰

Nowhere is the material expression of power in codex form more clearly visible than in the *Acts of the Roman Senate Concerning the Theodosian Promulgation* (*Gesta senatus romani de Theodosiano publicando*). The *Acts* record the presentation of the *Theodosian Code* in the West by pretorian prefect Faustus, during a meeting of the senate at his private residence in Rome late in 438.⁵¹ The details of this fascinating document

tuttavia, è stato più volte sottolineato come una decisa spinta propulsiva al passaggio da rotolo a codice sia stata in concorso garantita da istanze giuridico-pagane e cristiane insieme. Un aspetto interessante della questione riguarderebbe, con particolare riferimento a manoscritti di una discreta qualità formale, proprio la concezione autoritativa del testo, comune ad ambito cristiano e giuridico...” Idem.

⁵⁰“La scelta sulla scrittura da adottare ricade sull’onziale, la stessa in uso nei codici scritturali coevi. È possibile perciò riscontrare, in questo periodo, un’affinità di intenti, ovvero un’organica messa per iscritto dei ‘codici’ delle leggi umane e delle leggi divine. Questa attività parallela può, a mio parere, essere messa in rapporto con la crescente cristianizzazione della corte imperiale, che comporta l’intervento sempre più massiccio degli imperatori nelle questioni religiose, anche di rilievo dogmatico.” Ammirati, *Sul libro latino antico*, 92.

⁵¹The traditional date for the document is December 25th, 438, following Mommsen’s reading of “VIII. k. Ian.” in *Gesta Senatus* 8. Atzeri suggests an earlier date, namely

cannot hold me here,⁵² except to say that the Roman senate met continuously for almost a thousand years, and this is among the only transcripts of actual senatorial proceedings that remain extant.⁵³ The meeting began with a call to order and a reading from what is

the 25th of May, reading “VIII. k. I<u>n.” Atzeri, *Gesta senatus Romani de Theodosiano publicando*, 131–132. Text Mommsen. Most scholars, in any event, agree that the *Code* was intended to be put into effect in the West as of January 1, 439, though Barnes has suggested January 1, 438. Barnes, “Foregrounding the Theodosian Code,” 684–685. The *Gesta Senatus* is extant in one manuscript of the thirteenth century (Milan, Ambrosianus C 29 inf.). As argued persuasively by Atzeri, there is little reason to think that the *Gesta Senatus* originally circulated with the *Code*. Rather, it seems to have been added as a preface to the *Code* circulated in the West beginning in 443. Atzeri, *Gesta senatus Romani de Theodosiano publicando*, 264–286. Translations are adapted from Pharr.

⁵² I recommend both Atzeri’s full length study of the text cited above, as well as a succinct overview in Matthews, *Laying Down the Law*, 31–54.

⁵³ Benet Salway rightly notes that the *Acts of the Roman Senate* are nevertheless not an uninterested account. “...we must treat the *Gesta* with care, being careful to remember that, as a narrative, they preserve the viewpoints of the *praefectus praetorio* Faustus and the senate of Rome and, as a document, served the specific interests of the *constitutionarii*, and do not necessarily represent a comprehensive, impartial, and objective account of how the *Code* was transmitted and disseminated to the western empire as a whole.” Salway, “The publication and application of the

consistently referred to as a “consecrated” book⁵⁴ given by the emperor’s “divine hand (*manu divina*).”⁵⁵

The book was the *Theodosian Code*. “The *Code(x)* was received into our hands, as directed by the order of both emperors... they ordered that this undertaking should be performed in order that we may obey with proper devotion the most carefully considered precepts of the immortal emperors.”⁵⁶ One section of the book⁵⁷ was read—*Theodosian*

Theodosian Code,” 10.

⁵⁴ “After the marriage had been felicitously solemnized, our lord Theodosius, desired to add the following high honor also to his world, namely, that he should order to be established the regulations that must be observed throughout the world, in accordance with the precepts of the laws which had been gathered together in a compendium of sixteen books, and these books he had desired to be consecrated by his most sacred name. The immortal Emperor, our lord Valentinian, with the loyalty of a colleague and the affection of a son, approved this undertaking (*peractis feliciter nuptiis hanc quoque orbi suo sacratissimus princeps dominus noster Theodosius adicere voluit dignitatem, ut in unum collectis legum praeceptionibus sequenda per orbem sedecim librorum compendio, quos sacratissimo suo nomine voluit consecrari, constitui iuberet. Quam rem aeternus princeps dominus noster Valentinianus devotione socii, affectu filii conprobavit*).” *Gesta Senatus* 2.

⁵⁵ *Gesta Senatus* 3, 1.23.

⁵⁶ *Gesta Senatus* 3, 1.25.

⁵⁷ There is some confusion about the format of the book/s that arrived in the West in 438.

Code 1.1.5, to which I have turned a number of times already—in order that the assembly might know the intention of the codification program.⁵⁸ A collection of 46 exclamations follows, ranging from general (“May it please our *Augusti* to live forever! Repeated 22 times.”)⁵⁹ to specific (“Let the codes be copied and dispatched to the provinces! Repeated

In *Novella* 2.0 it is a single codex. “After we had reduced into the form of a single codex the constitutions of the previous deified emperors as well as our own...

(*Postquam in corpus unius codicis divorum retro principum constitutiones nostrasque redeimus*)”, In *Novella* 1.3, however, the texts are *libri*—plural. If Vatican Reg.

Latin 886 follows the division of its exemplar (into two codices for the two halves of the *Code*), then we have material support for a two-codex promulgation. In all likelihood copies of the *Code* took a number of formats, depending on its use.

⁵⁸In this sense, it is interesting that *CTh* 1.1.5 was read rather than *CTh* 1.1.6, which scholars generally understand to be the more proximate basis for the promulgation as actually received in the West. The fact that 1.1.5 was read, and that its rhetoric is confirmed (quite literally) in *Novellae* 1 and 2, suggests that the gap between intention and execution of the *Theodosian Code* was not as great in the mind of ancient receivers of the text as it is in the estimation of contemporary scholars attempting to reconcile the project proposed in 1.1.5 and that which was apparently realized.

⁵⁹*Ut vivere delectet Augustos nostros semper. Dictum XXII. Gesta Senatus* 5, 2.45.

Acclamations of this type are typical of the genre both in Greek and Latin, and predate the Theodosian Age. See, for instance, SEG LI 1813, a transcription of

11 times.”⁶⁰; “We request that the codes be kept in the public archives! Repeated 15 times.”⁶¹; “We request that you make a report to the emperor about the desires of the senate! Repeated 20 times.”⁶²), and which confirm the extraordinary status of the object of the *Code(x)* itself—it was to be emblazoned with the seal of the prefects in whose office copies are kept,⁶³ and many copies of the codices are to be made “in order that the established laws may not be changed.”⁶⁴

And yet, while each copy of the *Codex* was intended to stand in for the divine authority of the emperor himself, the prestige of the object diminished as it was transmitted. As child nodes receded further from the original product presented at the wedding of Western emperor Valentinian III to Licinia Eudoxia (daughter of Eastern

acclamations from Termessos, Pisidia, in the mid-third cent. CE. “Let him who [acts] on behalf of the city reside! (ὁ ὑπὲρ τῆς πόλεως ἐπιδημεῖτω) Let him who [acts] on behalf of peace reside! This is of benefit to the city! A decree for the brigand chaser! Let the well-born brigand chaser guard the city! Let him who has killed brigands guard the city! Let him who has often acted as legal representative for the city guard the city! (ὁ ἐκδεικῆσας τὴν πόλιν τὴν πόλιν φρουρεῖτω)...” Text and translation Ballance and Roueché, “Three inscriptions from Ovacik,” 109–110.

⁶⁰ *Codices conscripti ad provincias dirigantur. [Dictum] XI. Gesta Senatus* 5, 3.16.

⁶¹ *Ut in scriniis publicis habeantur, rogamus. Dictum XV. Gesta Senatus* 5, 3.20.

⁶² *Desideria senatus ut suggeras, rogamus. Dictum XX. Gesta Senatus* 5, 3.31.

⁶³ *Singuli praefecti signacula sua adhibeant. Dictum XV. Gesta Senatus* 5, 3.22.

⁶⁴ *Ne interpolentur constituta, plures codices fiant. Gesta Senatus* 5, 3.8.

emperor Theodosius II), the status of the objects changed.⁶⁵ When presenting the Western senate with this prestige object from the Eastern court, Faustus ordered copies of the codex to be made in three distinct groupings (*corpora*): the first was a the copy brought from the East and presented to the Senate, which was to stay under lock and key in the archives of the Pretorian Prefect. Another copy, part of a different *corpus*, was to be sent to the archives of the Urban Prefect, while a third copy comprising a third *corpus* was to be entrusted to two specially chosen *constitutarii* who were tasked with personally transcribing every published copy of the *Code*, including one to be sent to the province of Africa.⁶⁶ (Figure 6.4) Faustus's declamation is clear: each copy of the codex has a

⁶⁵ The wedding took place on October 29, 437. The presentation of this codex at the wedding of the Western emperor to the daughter of the Eastern emperor only underscores the careful stage-management of the project's roll out, and the political meaning of the project which was meant to demonstrate that the empire as a whole, after many decades of infighting between East and West, was *coniunctissimus* (*CTh* 1.1.5)—most closely joined, in the manner of a married couple.

⁶⁶ The copies and *corpora* are detailed in *Gesta Senatus* 7, 3.44–4.10. A rescript of Valentinian III, 23 December 443 (the so-called *Constitutio de constitutionariis*, discussed in chapter 8) grants exclusive license to copy and distribute copies of the code to the two *constitutarii*. John Matthews discusses the differing status of the three *corpora* in *Laying Down the Law*, 49–53, though his focus is on the aspect of archival security rather than differing prestige of the various groupings. See also Sirks, *The Theodosian Code*, 170. Salway notes plausibly that Faustus may speak

different, and diminishing, status, though they are all equally authoritative, and though all copies are to be made by the *constitutionarii* “in their own hand.”⁶⁷ Our earliest surviving manuscript of the *Code* comes from the late fifth or early sixth century,⁶⁸ and it shows clear signs both of being descended from an exemplar of “corpus 3,” as well as being a private copy. The inclusion of explanatory marginal notes, in particular, suggest that this cannot have been an official copy of the *Code*, and further that this manuscript did not command the awe evidenced in the Senatorial reaction to the *Code*’s presentation in 438; it wouldn’t have been annotated otherwise.

(with somewhat less precision that one might hope) of three different *copies* of the text, and that he simply refers to them as *corpora*, rather than speaking of three groups of manuscripts. The distinction doesn’t make a significant difference for my own argument, which has to do with the diminishing status of the copies relative to the original object presented at the wedding of Licinia Eudoxia and Valentinian III. Salway, “The publication of the Theodosian Code and transmission of its texts: some observations,” 31–38.

⁶⁷ ...*eorundem manu conscripta exemplaria*... *Gesta Senatus* 7.

⁶⁸ Vat. Reg. Lat. 886, about which I write more in chapter seven.

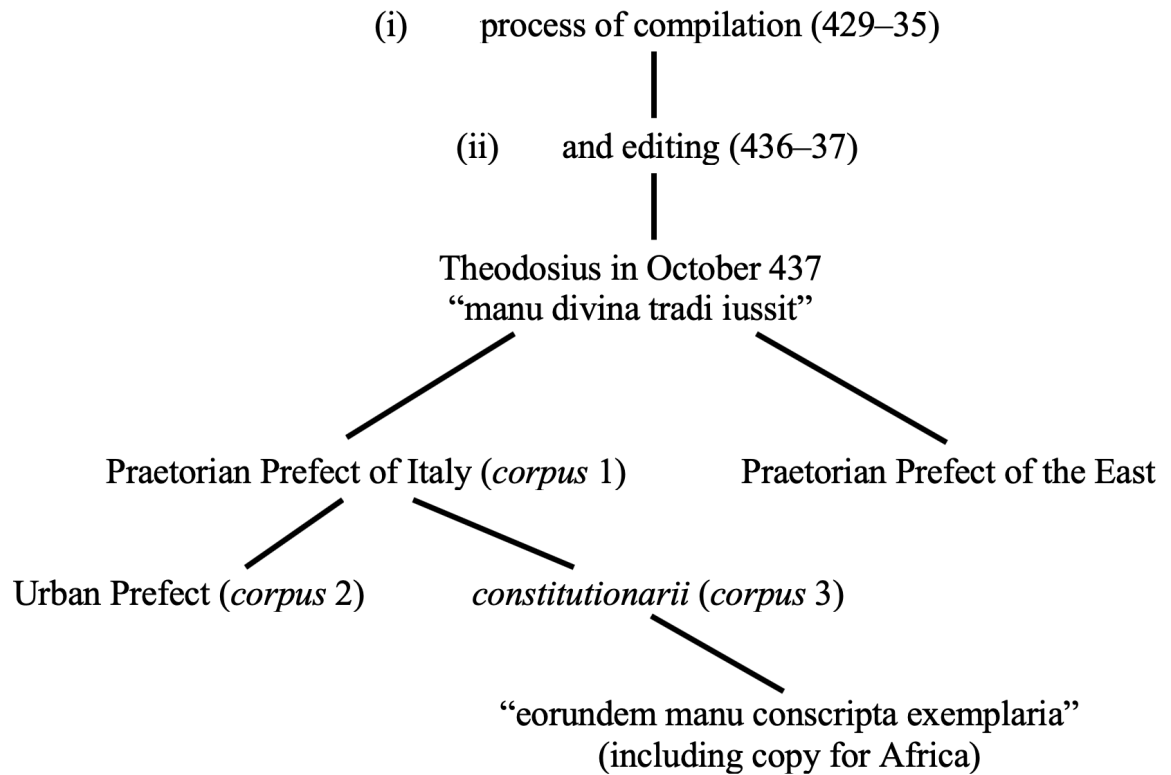


Figure 6.4. Stemma of *Theodosian Codices* described in *Gesta Senatus* 7. Chart adapted from John Mathews, *Laying Down the Law*, 51.

The *Code* presented to the Senate in 438 was sacred, and its status was reiterated in a number of *novellae* promulgated by Theodosius II after the publication of the *Code*, and collected in a dossier dispatched to the Western court in 447.⁶⁹ In his first *novella* (or,

⁶⁹ *Novella* 2, in particular, appears to be a cover letter for the collection of *novellae* that Theodosius II sent to Valentinian III on October 1, 447. The first *novella* (though not the earliest), quoted below, also concerns the promulgation and status of the *Theodosian Code*, and was promulgated from the Eastern court on February 15, 448.

“new law”), Theodosius II made provision for subsequent additions to the body of imperial general law, but always with reference to the *Code* that was kept in the sacred imperial archives.⁷⁰ Laws not officially added to the *codex* were to be considered forgeries.⁷¹ In other words, the *Theodosian Code* itself, and not its contents, was an object of power and the singular locus of authority in the later Theodosian empire. Copies could be made, and the content of the *Theodosian Code* could morph as was necessitated by the continuing needs of a functioning imperial apparatus. But the object itself—its very materiality in physical form as a codex—remained the central focus of authority even as the intellectual product and legal praxis around it changed.

Conclusion

In antiquity the codex was a book that you could do things with—you could heal

⁷⁰ “We confirm this compendious body of knowledge of the divine imperial constitutions from the times of the sainted Constantine, and after the kalends of next January, to no man is granted the right to cite an imperial law in court and in daily legal practice or to compose the instruments of litigation, except, of course, from these books that have come to be under our name and are kept in the sacred imperial archives (*et sacris habentur in scriniis*).” Translation adapted from Pharr. Text Haenel.

⁷¹ “Laws must be condemned with the mark of forgery if they are not recorded in the Theodosian Code after the designated time (*falsitatis nota damnandis, quae ex tempore definito Theodosiano non referuntur in codice*).” *Nov. Th.* 1.6. The *novella* notes a few exceptions, as well, in 1.6.

the sick, you could drive away sin, you could invite Christ incarnate to an imperially sanctioned debate, and you could present the authority of the emperor at a distance. Codices were utilitarian receptacles of information, but to view them solely as such is to fail to grasp the profound political and cosmic significance that became attached to the objects themselves.⁷² By the Theodosian Age the codex had completed its metamorphosis from caterpillar to butterfly. It was no longer a “shabby scratch pad.” It was capable of any number of miraculous deeds, and it was a sign itself of authority and religious sanction. Its larval stage can be seen in the exaltation of a lowly form by Christians, beginning with Constantine himself. By the time that Christians stalked the halls of power and created new, universal legal regimes as we find in the *Theodosian Code*, the codex had become the code—a symbol in and of itself.

⁷²Jeremiah Coogan articulates a conceptually distinct understanding of the power of the codex among certain North African populations in the fourth century, including in the work of Optatus and Augustine. “The Christian book is not an independent talisman. Rather, it is referential to its source.” Coogan, “Divine Truth, Presence, and Power,” 385. In the North African context, the idea that “divine presence is manifested by the sacred physical book as an object in itself” is associated with the “Donatist” party. I hope to have shown that such clear partisan distinctions did not survive into the fifth century.

Chapter 7—New Texts

The period between the modern imperial scramble for Africa and the strongest phase of its decolonization spanned the lifetime of a single man: Winston Churchill (1874–1965).¹ The greatest part of the European colonial enterprise, and the most thoroughgoing reaction against it, occurred in a period roughly the same duration as the Theodosian dynasty. Profound societal change in the modern era does not occur only in the *longue durée*, and late ancient life sometimes proceeded at a breakneck pace.

In February of 380, the emperors Gratian, Valentinian II, and Theodosius I, decreed that “all peoples who are ruled by the administration of our forbearance shall practice that religion which the divine Peter the Apostle transmitted to the Romans.”² According to a constitution preserved in book 16 of the *Theodosian Code*, this “religion” was preached by the *Pontifex* Damasus³ and by Peter the Bishop of Alexandria, and the constitution stipulates that “we shall believe in the single Deity of the Father, the Son, and the Holy

¹ See Eric Hobsbawm, “Looking Forward: History and the Future,” 13.

² *CTh* 16.1.2.0. Sozomen records a narrative account of this constitution’s conception and promulgation in his *Ecclesiastical History* 7.4.3–6. The apparent intention of this constitution notwithstanding, some 6 years later Libanius reported in his *Oration for the Temples* (*Pro templis*) 30.35 that sacrifice on behalf of the empire continued in Alexandria and Rome, at least. Text LCL 452.

³ Jörg Rüpke (ed.), *Fasti Sacerdotum*, 2.1433 s.v. “Damasus”

Spirit, under the concept of equal majesty and of the Holy Trinity.”⁴ According to the emperors, this particular statement of was more than just something that “we must believe (*credamus*)”: it was a law (*lex*), and obedience to the law granted one the right to be called a “Catholic Christian.”⁵ Dramatic and systemic changes characterize the Theodosian Age, beginning with the elevation of the Nicene confession of faith to the status of law.

Historians attempting to trace the rise of Christianity in the second and third centuries necessarily take a somewhat speculative approach to the evidence, given its relative scarcity and the inherent difficulty in relating fragmentary evidence to a political and social environment that was intermittently hostile. The late fourth century revolution in governing ideology and in scholastic epistemology, on the other hand, is well documented, and was active throughout the period under discussion. New forms of scholarly knowledge production arose rapidly in the Theodosian dynasty, and scholars reacted to these new forms of knowledge production in real time. In chapters four and

⁴ ...*patris et filii et spiritus sancti unam deitatem sub parili maiestate et sub pia trinitate credamus. CTh 16.1.2.0*

⁵ “We command that those persons who follow this law shall embrace the name of Catholic Christians (*Hanc legem sequentes Christianorum catholicorum nomen iubemus amplecti*).” *CTh 16.1.2.1*. Mark the Deacon notes in his *Life of Porphyry* that under Arcadius, high office holders could be stripped of their honors if the emperors discovered that “they did not hold correctly concerning the undefiled faith (οὐκ ὀρθῶς ἔχουσιν περὶ τὴν ἄχραντον πίστιν).” Mark the Deacon, *Life of Porphyry* 51.

five I investigated literary sources in order to trace the proliferation of a Nicene Christian epistemology through Theodosian age scholarly productions. This chapter turns to the material evidence for many of those same literary sources—to manuscripts, and to the ways in which norms, creeds, and laws were aggregated, distilled, and promulgated. By the time that scribes copied most of our earliest extant manuscript evidence—by the late Theodosian Age—new forms of argumentation and compilation had already overtaken the scholastic landscape. The predominance of codes, as well, had cast a long shadow across this landscape. This chapter picks up there, where I left off at the end of chapter six.

Gratian's Talisman

In the summer of 378 the emperor Gratian was 19 or 20 years old, and he was going to war. Gothic tribes had invaded Thrace, a “countless horde that had taken possession of the mountain heights as well as the plains,”⁶ and before leaving the western court for the field of battle the young emperor requested a talisman in the form of a codex from Ambrose, the bishop of Milan. Ambrose warned that the “book about the faith (*fidei libellum*)” which he delivered to the emperor would not be up to the task of “acting as an adjudication of the faith (*de fidei disceptandi*),” but rather was intended as a “collation of a multitude of opinions (*de testimoniis plura contexam*),”⁷ and would satisfy the

⁶...*impares plebi immensae, quae celsorum iuga montium occuparat et campos.*

Ammianus Marcellinus, *Res Gestae* 31.7.2. Text LCL 331.

⁷ Ambrose, *Concerning the Faith* 1.pro.4 PL 16.529A.

Emperor's needs for a talisman even though, he added, the Nicene Creed itself already was "just like a trophy, raised to proclaim victory over faithless ones throughout the world."⁸ The emperor did not request a gem for his dangerous journey, similar to what many Christians wore in this period for health and for safety,⁹ nor did he order his soldiers to affix a Christian symbol to their shields to invoke divine power and protection, as Constantine had done some fifty years before.¹⁰ Gratian asked for a codex of scholastic opinions on a theological question that had been adjudicated thirty-four years before his birth.¹¹

⁸ ...*velut tropaeum, toto orbe subactis perfidis, extulerunt. Concerning the Faith* 1.pro.5

PL 16.529B. *Tropaeum* is simply a transliteration of the Greek τρόπαιον, and is perhaps an oblique reference to the "trophy of a cross in light" (σταυροῦ τρόπαιον ἐκ φωτός) revealed to Constantine before his battle at the Milvian Bridge, according to Eusebius, *Life of Constantine* 1.28.

⁹ See, for instance, Princeton University Art Museum 2004-85, a Roman intaglio gem in hematite from the 3rd–5th century depicting a Saint [likely George] on horseback slaying a female demon.

¹⁰ Lactantius, *On the Deaths of the Persecutors* 44.5, reports that Constantine was advised in a dream "to mark the heavenly sign of God on the shields [of his soldiers] (*caeleste signum dei notaret in scutis*)" before his successful siege of Rome and defeat of Maxentius at the Milvian Bridge.

¹¹ On the publication of the first two books of *De fide*, see Daniel H. Williams, *Ambrose of Milan and the End of the Arian-Nicene Conflicts*, 128–153.

Gratian's request for a book of opinions as protective amulet is utterly bizarre from the point of view of even the earlier fourth century. Ambrose regarded the Nicene Creed itself as a "trophy," but the young emperor requested a book of scholarship for his talisman, instead. His request speaks further to the extent to which the aggregative codex had become a symbol of power and divine guidance for Nicene Christians who were, as I have argued, peculiarly bookish, and invested in the production of textualized, aggregative truth.

It is the historian's good luck that two copies of Gratian's talisman remain extant, both of which were produced during the Theodosian Age. The literary qualities of this text are remarkable in and of themselves; in the quotation above Ambrose suggested that the collation of opinions was only the first step toward knowledge of the truth. In other words, he takes part in a structure of knowledge known from a wide variety of other Theodosian Age productions that I detailed in chapters four and five.¹² Yet the material qualities of these two manuscripts demonstrate most vividly the extraordinary coherence of the Theodosian structure of knowledge in which Ambrose's book takes part. Ambrose indicated that aggregation was the first step toward the production of universal truth, but he was concerned also with the effects of such aggregation. We learn from these two manuscripts that his earliest readers held similar concerns about the effect of placing heretical and orthodox opinions side-by-side.

Concerning the Faith

¹² Ambrose, *Concerning the Faith* 1.pro.5

In *Concerning the Faith*, Ambrose implements an aggregative structure of knowledge, but he also concerns himself with the problem that this manner of argumentation poses for a reader trying to extract truth from the fray; he concerns himself with what I call the “problem of discernment.” A structure of knowledge in which any truth claim must be based on an aggregation of the sources also must employ a manner of deciding between opposing sources, and discerning the truth. For Ambrose, this problem was acute. In *Concerning the Faith* he claims that his predecessors, and scripture itself, required that “impious doctrines should be included in the record of their decrees,” but Ambrose laments that a credulous reader may accidentally stumble into heresy on account of this requirement.

So of course, our fathers spoke following the guidance of the Scriptures, holding that impious doctrines (*sacrilega dogmata*) should be included in the record of their decrees in order that the unbelief of Arius should discover itself, and not so as to hide itself with red-blush (*fucis*), or with dye. Those who don’t dare explicate what they think are in fact carrying out a fraud (*fucum*). The impiety of Arius is not propagated through exposition, like in the censor’s books. Rather it is exposed [as heresy] through condemnation, such that the curious person eager to hear won’t fall into error, because he knows already that it is condemned, before he hears, in order that he might believe.¹³

¹³ *Sic nempe nostri secundum Scripturas dixerunt Patres, qui etiam sacrilega dogmata ideo suis inserenda putavere decretis, ut Aarii perfidia ipsa se proderet; ne quasi fucis quibusdam et coloribus illita velaretur. Fucum enim faciunt, qui non audent explicare*

This passage immediately precedes Arius's heretical statement of faith. Ambrose admits that he is bound to include heretical statements in his work, and that those who fail to say openly what they think thereby render their thoughts deceitful.¹⁴ In order to expose heresies as such, and not to allow them to hide as if wearing blush, Ambrose names and condemns heretical opinions even before they appear in his text "such that the curious person eager to hear won't fall into error, because he knows already that it is condemned, before he hears..."¹⁵ Ambrose was willing to hew to the Nicene manner of argumentation, but he wanted to save his reader from falling into the trap of heresy when they read impious doctrines in the text. In order to combat heresy, Ambrose amply warns the reader that what is to come is not to be trusted.

The earliest reader of Ambrose's *Concerning the Faith* for whom we have evidence is a scribe, working in Italy in early to mid-fifth century. The scribe must have found Ambrose's warning compelling, and perhaps insufficient, because while copying the above text, the scribe employed another set of mechanisms to make abundantly clear to any reader that the text she or he was about to read was dangerous. Perhaps taking a cue

quod sentiunt. Censorie itaque impietas Ariana non expositione reseratur, sed damnatione detegitur, ut qui curiose gestit audire, prius damnatam cognosceret, ne laberetur, quam expositam audiret, ut crederet. Ambrose, *Concerning the Faith*

1.18.119. *PL* 16.555C–556A. Translation adapted from NPNF.

¹⁴ Ambrose here plays on the dual meaning of *fucus*, which means both "rouge/red-blush" and "deceit."

¹⁵ Ambrose, *Concerning the Faith* 1.18.119.

from Ambrose's warning that heresy is sometimes disguised "with red-blush" (*fucis*), the scribe of Stiftsbibliothek Lavanttal 1 marked out the heresy that follows with the addition of two words in red ink: *Expositio Aarii*—"Arius's statement of faith."¹⁶ (Figure 7.1)

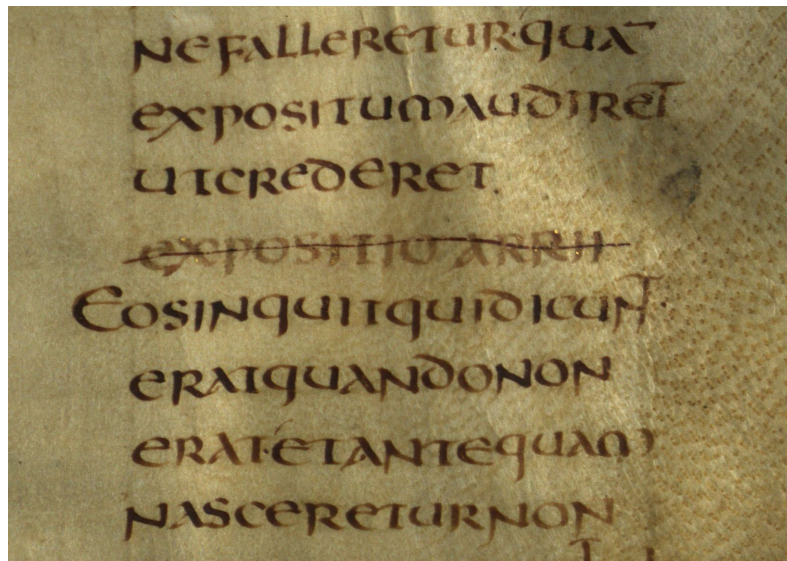


Figure 7.1. Stiftsbibliothek Lavanttal 1, 34r.

This is the earliest manuscript of Ambrose's *Concerning the Faith*, and aside from incipits and explicits, its scribe uses red ink only to mark off heresy. In other words, this deluxe Theodosian manuscript uses red ink to deal with the problem of discernment occasioned by the expectation of aggregation. As in many other Theodosian Age manuscripts, the incipits of each section are written in three lines of red. Such use of red ink was well established by the fifth century, as we see in, for instance, a (palimpsested)

¹⁶ TM 67637, CLA 1450. Images graciously provided by the Stiftsbibliothek St. Paulus in Lavanttal, Austria.

scholion on Cicero (TM 66123) for which the scribe used red for the first three lines of each book and for words rendered in Greek.¹⁷ Red ink was commonly used for identifying to the reader something in the text that needs to be emphasized. In this fifth century copy of Ambrose's *Concerning the Faith*, it was used to mark off heresy.¹⁸

In this manuscript, all heretical statements are marked off in a similar manner, with material included for the purpose of aggregation marked off on either side by red uncial lettering. See, for instance, Figure 7.2, where the scribe warns that the following statement comes from Arius by writing *Expositio dogmatis Arriani* in red ink. See also Figure 7.3, where the scribe ends another heretical statement with a red uncial title reading "On the Eternal Son of God (*De Sempiterno d(e)i Filio*)," indicating to the reader that each of the heretical statements in the previous section would be refuted thereafter.¹⁹

¹⁷ There is also space left for three lines of each book in red uncial in TM 66130, a palimpsest copy of Cicero's *Republic* used in the 7th century to copy Augustine's *Commentary on Psalms*. The same is visible in the two deluxe editions of Vergil that remain intact from the fifth century, Pal. Lat. 1631 and Vat. Lat. 3867. (See also ÖNB Cod 15, 20r, 102r, 147r, etc.) The scribe used ekthesis (visible in Figure 7.1) throughout the manuscript to mark off the beginning new sense units.

¹⁸ In this case a later corrector (likely Abbot Hartmut of St. Gall, see *CLA* 10.1450, p.5) crossed out the warning because, strictly speaking, it is not part of Ambrose's text. Rather, it is an addition made by this Theodosian scribe in response, I argue, to the epistemic concern expressed in the text.

¹⁹ This title appears to be a gloss, and not part of Ambrose's initial text. The same use of

As I argue below, there is good reason to think that these glosses are meant to deal with the problem of aggregation, and were not part of the scribe's exemplar. Rather, this scribe appears to have added these additional warnings for the same reason that Ambrose added the initial ones: to save the credulous reader from falling into heresy.

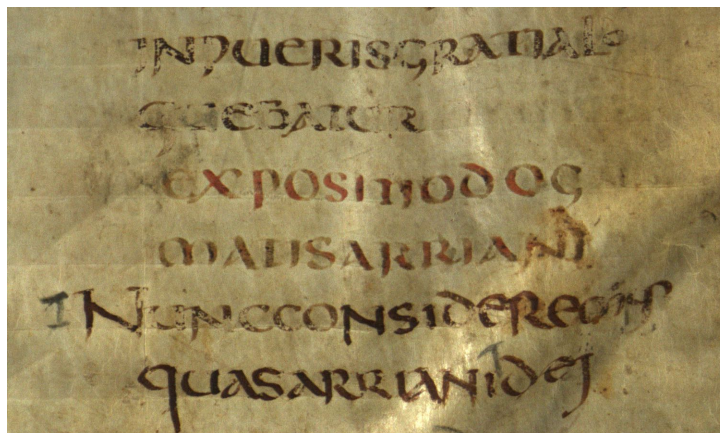
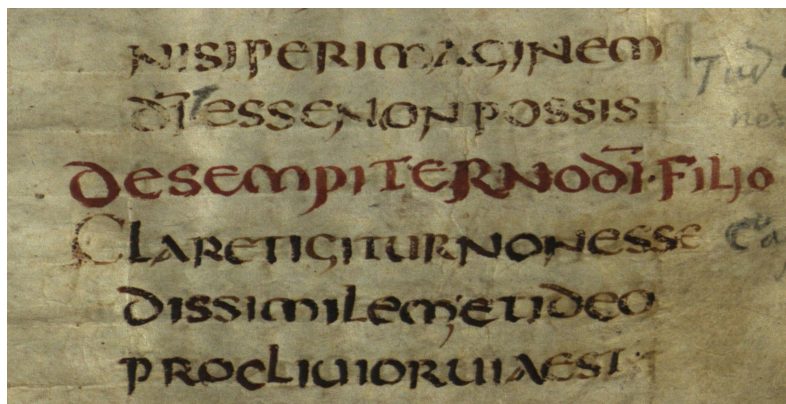


Figure 7.2. Stiftsbibliothek Lavanttal 1, 10v.



red ink and indentation is visible in the other Theodosian Age copy of this text, Paris BnF 8907 302v (compare Figure 7.2) and 305r (compare Figure 7.3). I will say more about this manuscript below.

Figure 7.3. Stiftsbibliothek Lavanttal 1, 15r.

I have argued that throughout the scholarly landscape of the Theodosian Age we see an epistemology featuring arguments based on aggregation. This earliest manuscript of Ambrose shows that already in the Theodosian Age, concerns stemming from this epistemology made the leap from text to paratext, and influenced the way that aggregative scholarship looked on a manuscript page. New readers make new texts; here we have one such new text.

Throughout the fifth century, however, scholars and scribes continued to engage the problem of discernment, and scribes responded to the same problems in different ways. One way that we can see the variety of responses is when contemporaneous manuscripts survive of the same text. In the case of Ambrose's *Concerning the Faith*, we are lucky to have two manuscripts from the Theodosian Age. It appears that both scribes were cognizant of the issues related to aggregation and discernment, but that each responded to the issue in a slightly different manner.

While the scribe of the Lavanttal manuscript uses red uncial lettering only to mark off heresy, the scribe of Paris Latin 8907 supplemented Ambrose's text in a different way, using red throughout the manuscript to mark off heretical and orthodox creeds alike.²⁰ For instance, in the transition between Ambrose's preface and the Orthodox creed that follows, the scribe of the Paris manuscript added *Expositio fidei* ("statement of

²⁰BnF Lat. 8907, TM 66704.

faith”) in red letters, making abundantly clear that what follows is an authorized creed.²¹
(Figure 7.4)

Image removed due to copyright concerns

Figure 7.4. Paris, Bibliothèque Nationale Lat. 8907, 298v.

We can see the Paris scribe’s agency (and guess at their intention) in this incursion into Ambrose’s text by comparing it with the same passage in the Lavanttal copy. The Lavanttal manuscript witnesses the same base text as the Paris copy, but the Paris scribe added *Expositio Fidei* in red ink to indicate that the *pietatis exemplum* which follows is an orthodox creed. (Figure 7.5)

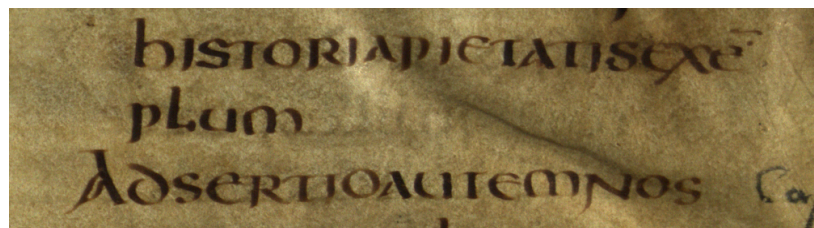


Figure 7.5. Stiftsbibliothek Lavanttal 1, 4r, which notes the coming *pietatis exe(m)plum*

²¹ While I refer to both manuscripts by their current location, it is as certain as

paleography and codicology can be that both were produced in Italy. See *CLA* 572, 1450.

without recourse to red ink, as is used for heretical creeds in this manuscript.

Look carefully at Figures 7.4 and 7.5. Notice in both manuscripts the rounded D of a single strike, the high hasta and closed eye of the E, the L that rises above the line, and the calligraphic, oversized A with a pointed bow. These two scribes received remarkably similar training, and the hands must be dated to the same paleographic period. The scribes received similar training, but each responded in a distinctive way to the problem of aggregation that placed orthodox and heretical statements side-by-side.

Between chapters 17 and 18, too, the scribe of the Paris manuscript has inserted *Definitio patrum de fide* in red uncial before the Orthodox statement of faith. (Figure 7.6) At the same point in the text, on the other hand, the scribe of the Lavanttal manuscript left a blank space. (Figure 7.7) Perhaps the Lavanttal scribe left this gap so that a later reader could add the *Definitio patrum de fide* witnessed in the Paris copy if they desired. The introduction of a space between these chapters in the Lavanttal manuscript suggests that the scribe knew of the clarifying addition, but did not find it necessary to identify orthodox creeds with clarifying additions in red ink, as they did for heretical creeds.

Image removed due to copyright concerns

Figure 7.6. Paris, Bibliothèque Nationale Lat. 8907, 315r.

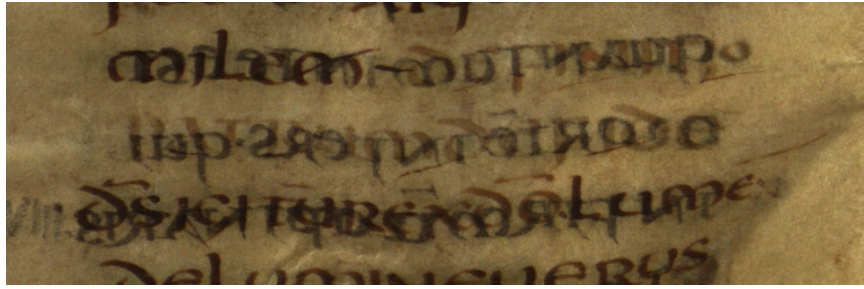


Figure 7.7. Stiftsbibliothek Lavanttal 1, 33v. A corrector has struck out the *M* on the end of *disimile* in Lavanttal, and added an *N* at the end of *lumen* in what appears to be a contemporary half-uncial hand. The thinner brown lines filling the blank space are reminiscent of the strikethrough on 34r (Figure 7.1), and are likely the result of a ninth century reader intending to clarify that the extra space should not be used for a clarifying insertion like that found in BnF Lat. 8907, 315r. (Figure 7.6)

The scribes of Paris Latin 8907 and Stiftsbibliothek Lavanttal 1 both copied Ambrose's *Concerning the Decrees* in Italy at about the same time,²² and both scribes deal with the same problem: the problem of including heretical material in an orthodox production.²³ Yet each arrived at a slightly different solution. The difference between

²² See support for the dating of the Paris manuscript in C. P. Hammond Bammel, "From the School of Maximinus," 391–2; and Gryson and Gilissen, "Paléographie et critique littéraire," 335–336.

²³ BnF Lat. 8907 includes Hilary's *Concerning the Trinity*, Ambrose's *Concerning the Faith*, and the *acta* of the Council of Aquileia. The manuscript appears to have been created as a collection of material attendant to the debate between Ambrose and Palladius at Aquileia in 381. It did not long stay in the hands of Nicene Christians,

these solutions suggests that these scribes were aware of the issue of discernment, and that the issue remained unresolved in late ancient scriptoria, just as it was in scholarly salons of the Theodosian Age.

Concerning the Synods

Hilary of Poitiers was exiled to Phrygia in 356. In 358 he wrote back to his colleagues in the West about the controversies embroiling the Greek speaking empire,

however, as it includes the so-called *Dissertation of Maximinus* written in the margins of the conciliar *acta* and in the latter portions of Ambrose's *Concerning the Faith*. On the *scholia*, see Roger Gryson, "Origine et composition des «*scolies ariennes*» du manuscrit Paris, B.N., lat. 8907" and Bammel "From the School of Maximinus." While the base text of this manuscript is almost certainly late-fourth or early-fifth century (what Lowe would call "uncial of the oldest type"), I agree with Martini's re-dating of the marginal *scholia* to the sixth century on the basis of a clear parallel with both the dated Fulda Gospel (TM 67337) and the sixth century Pliny fragments described by Lowe (with the help of E. K. Rand) in *A Sixth-Century Fragment of the Letters of Pliny the Younger*. "Considerato che l'onciale dei Vangeli di Fulda, primo testimone datato del secolo VI (CLA 1196, cr. 546/547) è nettamente partecipe del filone «new style», a me pare che quella del Paris, lat. 8907 possa assegnarsi a non prima della fine del secolo Ve, più probabilmente, agli inizi del VI." Paola Supino Martini, "Recensione: Roger Gryson–Léon Gilissen, *Les scolies ariennes du Parisinus latinus 8907*," 113.

and the creed that had been decided 20 years earlier as an attempt to settle the matter.²⁴ The earliest manuscript of Hilary's *Concerning the Synods* was copied in 509. In this manuscript, too, paratextual solutions are introduced to deal with the problem of discernment.

Hilary presents a heretical creed in chapter 11 of *Concerning the Synods* with an explicit, textual notification: *Exemplum Blasphemiae apud Sirmium per Osium Potamium conscriptae*. (Figure 7.8) This part of the text is marked out with ekthesis, as is the heretical creed on the next page, beginning with *Unum constat*. (Figure 7.9)

Image removed due to copyright concerns

Figure 7.8. Vat. Arch.Cap.S.Pietro.D.182, 303r.

²⁴ Hilary's letter is remarkable evidence that the Nicene Creed, a central focus of theological dispute in the Eastern empire almost since its creation in 325, was largely unknown in the West until at least the 360s.

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Figure 7.9. Vat. Arch.Cap.S.Pietro.D.182, 303v.

The same scribe identified the end of the heretical creed with another paratextual feature, this time writing *finit blasphemia* in oversized capitals; the scribe changed scripts to clarify to the reader that what precedes was *blasphemia*, and what follows is approved. (Figure 7.10)

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Figure 7.10. Vatican Arch.Cap.S.Pietro.D.182, 304r.

A later reader (though likely one in the same scriptorium as the original scribe) added an arrow at the beginning of the heretical statement with a note reiterating that the following was an *Exemp(lum). blasphemiae*—“an example of blasphemy” that is

present only for the purposes of aggregation. This marginal note transparently echoes the *Finit blasphemia* on the following page, and reiterates, yet again, that the intervening text should not be mistaken as truth.

Apparently, however, even this much paratextual forewarning was eventually deemed insufficient, because a later reader added an obelus at the beginning and the end of the passage, in addition to the word *pessima*—“totally wicked.”²⁵ This further addition apparently updated the manuscript for different conventions of notification, but it carried the same message: what is here is heresy.²⁶ Already during the Theodosian Age, the problem of discernment stemming from the newly Christianized structure of knowledge led writers, and readers, to take prophylactic steps to stem the effect of heresy that was present in orthodox manuscripts. This manuscript shows that the problem remained in the

²⁵ See the left and right of figures 7.9 and 7.10, respectively.

²⁶ Furthermore, on 305v a later reader inserted an *oraion* (indicating a point of interest) that points to the part of the text directly following *anathema sit*. Here we have a corrector indicating that the anathematized quotation has ended because the original hand has missed the end of the quotation. This later reader clearly expected *ekthesis* in the next line indicating that a new sense unit has begun, as is the case elsewhere in this manuscript after the end of a heretical quotation. Apparently this later reader was concerned that the original scribe did not clearly indicate the *end* of the anathematized quotation. This part of the text also has red numerals in the margins that identify the various anathemas in a manner strikingly reminiscent of the Eusebian Canon tables described by Jerome in his *Preface to the Four Gospels*.

minds, and the marginalia, of later readers.

Manuscripts from the fifth century show a variety of textual and paratextual solutions to the problem of discernment. There is another early manuscript of Hilary's *Concerning the Synods* (LDAB 7924), copied likely during the Ostrogothic period (and thus shortly after the end of Theodosius II's reign). This manuscript shows a different method of dealing with the inclusion of heretical materials in Hilary's text. According to Lowe, this manuscript was "written doubtless in Italy by a master scribe in a scriptorium maintaining high standards,"²⁷ and it marks out the heretical creed from Sirmium in 357 as above, with ekthesis in addition to the text *Exemplum blasphemiae apud sirmium per ossium et putanium conscriptae*, "a copy of the blasphemy of Sirmium written by Ossius and Potamius."²⁸ (Figure 7.11)

²⁷ CLA 5.545a p.9

²⁸ This is the so-called "Second Creed of Sirmium."

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Figure 7.11. Paris, Bibliothèque Nationale Lat. 2630, 320r. *Concerning the Synods* 11.²⁹

²⁹ The trend of warning readers and glossing heretical creeds continued even into the mid-nineteenth century *Patrologia Latina* series. See *PL* 10.487A, where Migne (perhaps following a medieval manuscript) records *Deum esse unum. Substantiae vocem tacendam. Patrem filio esse maiorem* between Hilary's indication of the heretical creed (*Exemplum blasphemiae...*) and the creed itself (*Cum nonnulla...*). Most confusingly, a footnote on the title records "Titulum hunc ab ipso Hilario praefixum..." It is left up to the reader to decide whether the further gloss is reflected in the manuscript, or whether scholium hanc ab ipso Migno(ne) praefixum. Migne

After this textual warning, the same scribe identifies heresy by indenting (*eisthesis*) heretical statements further than the rest of the text. (Figure 7.12) Orthodox statements, on the other hand, are not indented. See, for instance, the orthodox statement given at Sirmium against the heresies of Photius. It is introduced as a statement of faith in the same way as the heretical ones (in this case, with *Exemplum fidei Sirmio ab Orientalibus contra Fotinum scribtae*),³⁰ but it is not indented. (Figure 7.13) In this manuscript, extra indentation is reserved for heresy, alerting the reader to the status of the text through the material form of its presentation.

does not gloss the orthodox creed in chapter 38 (seen in Figure 7.13).

³⁰ *Scribtae* is a corruption of *scriptae*. The mistake is easy to understand, but it is hard to know what it means. In the case that the scribe is working with a written exemplar, “B” and “T” in Theodosian uncial are easy to mix up. If s/he was transcribing from an oral source, the confusion is even easier to explain: “B” and “P” are both bilabial plosives, the only difference being in voicing. The same mistake two lines above (“conscribtae” for “conscriptae”), however, suggests that the corruptions are either present in the scribe’s exemplar or that s/he is transcribing orally, and that the “corruption” indicates common pronunciation in Ostrogothic Italy.

Image removed due to copyright concerns

Figure 7.12. Paris, Bibliothèque Nationale Lat. 2630, 322r. *Concerning the Synods* 15.

Image removed due to copyright concerns

Figure 7.13. Paris, Bibliothèque Nationale Lat. 2630, 335r. *Concerning the Synods* 38.

Before the fourth century, paratextual intervention in Christian scholarship is vanishingly rare. The earliest Christian manuscripts have little by way of paratextual markup, and nearly all that do have paratexts indicating something about the status of the text date to the period after the Council of Nicaea. A curious exception is P.Oxy 3.405 (TM 61317), a late-second or early-third century copy of Irenaeus' *Against Heresies* with

“wedge-shaped signs in the margin similar to those employed for filing up short lines.”³¹

In this case, the wedges typically employed by Egyptian scholiasts were used on the right margin of the recto, and appear to indicate a quotation from the *Gospel according to Matthew* 3:16–17.³² (Figure 7.14) The relative paucity of evidence means that it is hard to say anything conclusive about the extent of this particular paratextual feature in Christian theological scholarship before the fourth century. The scribe of this manuscript, however, found use in marking out at least this one quotation in Irenaeus’s text. We can presume that other places in this manuscript would have quotations similarly marked out, though it is impossible to say whether the motif was used for all quotations or merely for texts that were considered authoritative.

³¹ *The Oxyrhynchus Papyri*, 3, p. 10. *P.Oxy* III 405 = Cambridge, University Library Add. Ms. 4413.

³² See Richard and Hemmerdi, “Trois nouveaux fragments de l’*Adversus haereses* de Saint Irénée,” 252–255 for a fuller analysis of this fragment.

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Figure 7.14. *P. Oxyrhynchus* III 405, frag. A, cols. 1–2. (Plate 1)

Already in the late-second or early-third century, Tertullian had suggested paratextual solutions to particular problems occasioned by his own form of theological scholarship, in particular, when discussing Greek cosmological texts and ideas in Latin. In his *Against the Valentinians*, he notifies readers that

...for some of the names, a translation from the Greek does not bring out the appropriate force of the name. For others, the gender of the word in the two languages does not match. Finally, we are more used to the citation of others untranslated.³³

³³ ...*quorundam enim de Graeco interpretatio non occurrit ad expeditam proinde nominis formae. Quorundam nec de sexu genera conveniunt. Quorundam usitatio in Graeco notitia est.* Tertullian, *Against the Valentinians* 6.1. Text CSEL.

Tertullian offers his solution in the next sentence.

For the most part, then, we shall use the Greek names; their meanings will be noted on the margins of the page. Nor will the Greek be unaccompanied by Latin equivalents. Rather, such will be marked with supralinear strokes — because explaining the personal names is made necessary by the ambiguities of some of them, which suggest some different meaning.³⁴

Because the earliest extant manuscript of Tertullian's text is medieval, we do not know the precise form of that his paratextual markup took in third century manuscripts, nor the extent to which ancient copies employed these tools.³⁵ What is clear, however, is that he used paratextual solutions to engage a theological problem—in this case, the problem of explicating Greek cosmology in Latin. Apparently Tertullian did not expect his reader to recognize these paratextual features, or how they were to be used, without some explanation. Without further manuscript evidence, we cannot tell whether he was using common in-text signs to signify paratextual features (perhaps a generalized version of the Aristarchan system) or whether he invented a new group of signs himself. Tertullian's use of paratextual features in Christian scholarship substantially pre-dates the Theodosian

³⁴ *Itaque plurimum Graeca ponemus. Significentiae per paginarum limites aderunt, nec Latinis quidem deerunt Graeca sed in lineis desuper notabuntur ut signum hoc sit personalium nominum propter ambiguitates eorum quae cum alia significatione communicant. Against the Valentinians 6.2.*

³⁵ The earliest text is Sélestat, Bibliothèque humaniste Ms. 88, and dates to the 11th century.

age, but his rationale for marking up his margins is dramatically different from what we see, for instance, in the work of Jerome, to which I turn below. Tertullian needed to clarify issues of translation. Jerome was concerned with discernment.

Jerome's *Obelus*

Jerome was prolific. He wrote commentaries on nearly every part of the canonical biblical text, as well as a vast trove of letters and other theological works to set alongside his most enduring accomplishment: a full translation of his Bible from Hebrew and Greek into Latin. He was intimately familiar with his sources, with the problem of textual variation within authoritative texts, and he was regularly in contact with Roman Traditionalists in the imperial capitol as well as Jewish teachers in Palestine. And yet, for all his learning and famed reclusive irascibility, Jerome nevertheless possessed a single point of scholarly humility. Before offering the final word on any particular topic, he would first aggregate all of the relevant sources, regardless of whether they were capable of edification.

The preface to his translation of the book of Job, Jerome claims that aggregation is the proper form in which to present scholastic arguments, and also that paratextual accommodations can deal with problems of discernment. He undertook to study the various Greek translations included in Origen's *Hexapla*, and made a text critical investigation into the relationship between the Hebrew and the Greek texts, which differ by "almost seven hundred or eight hundred verses (*septigenti ferme aut octigenti*

versus).”³⁶ Confident in the quality of his work, Jerome went so far as to boast “let whoever wishes keep the old books, either written on purple skins with gold and silver, or in uncial letters (as they commonly say: “loads of writing” rather than books), while they leave me and mine to have poor little leaves, and not such beautiful books as correct ones.”³⁷ The boast might seem hollow, or at least exaggerated, were it not for a

³⁶ Jerome, *Preface to Job*. Text and translation adapted from SC 592. He even claims to have paid “no little amount of money” to a Jewish instructor from Lydda to aid him in the project. It is interesting to note that the issue for which Jerome turned to a Jewish instructor in Lydda was, so far as we can tell, not of interest to Rabbis of the Late Ancient period. As Moulie Vidas notes, “Practices which were central for ‘book cultures’ of other scholarly traditions as solutions to the problems of the accessibility of the text and its multiple versions—practices which aimed at collecting copies of works, discovering rare works or versions and the collating and comparing of different copies in search of a better text—were not central to the rabbinic study of Scripture.” Vidas, “A Place of Torah,” 29.

³⁷ *Habeant qui volunt veteres libros, vel in membranis purpureis auro argentoque descriptos, vel uncialibus, ut vulgo aiunt, litteris, onera magis exarata, quam codices: dummodo mihi, meisque permittant pauperes habere schedulas, et non tam pulchros codices, quam emendatos.* Jerome, *Preface to Job*. PL 28.1803A–1804A. See also Jerome *Letters* 107.12.1, where he commands Laeta concerning her infant daughter “Rather than gems or silks, may she love the divine codices. In these may she think less of gold, and Babylonian parchment, inlaid designs, but let her appreciate

manuscript of precisely this type and time period remaining extant. (Figure 7.15)

Image removed due to copyright concerns

Figure 7.15. Verona, Biblioteca Capitolare VI.6(30), 96r, from Matthew 23. In this, we happen to have a fifth century codex that fits Jerome’s mocking description.³⁸ The fifth

correctness and accurate divisions.”

³⁸ This is the so-called “Codex Veronensis,” at the Biblioteca Capitolare di Verona called *Evangelia antehieronymiana Purpurea*—“the pre-Jerome purple gospel book.” A single letter substitution would render “the anti-Jerome purple gospel book,” which is perhaps just as apt given Jerome’s barbed discussion of such deluxe editions of the New Testament in Latin, in what he would consider inferior translations.

century codex comprises 388 ancient folia dyed purple, with Latin uncial of the Theodosian type written in silver and gold ink—silver for the text, Gold for the first lines of each gospel as well as *nomina sacra* and the Lord’s prayer.

Jerome offered a translation from the Septuagint and the Hebrew in his Old Testament, and from the Greek in the New. In his estimation, the rendering was of the highest quality. Yet, his translation is not meant to stand alone, nor to be read exclusively, at the expense of “loads of writing”—deluxe copies of lesser scholastic productions. Rather, Jerome purposefully left it to the studious reader to decide the best reading in each case. “Each edition—both the Septuagint according to the Greeks, and mine according to the Hebrews—has been translated into Latin by my labor. May each one choose what he will, and prove himself studious rather than malevolent.”³⁹ Jerome’s uncompromising text critical work brought him into contact with Origen’s *Hexapla*, a collation of six versions of the Hebrew bible that included Theodotion’s own second century CE translation of the Hebrew bible.⁴⁰ Origen and Theodotion both repurposed two Aristarchan signs—the asterisk and the obelus—to offer a transparent collation of translations: indicating places where the Hebrew base text and the Greek

³⁹ *Utraque editio, et Septuaginta iuxta Graecos, et mea iuxta Hebraeos, in Latinum meo labore translata est. Eligat unusquisque quod vult: et studiosum me magis, quam malevolum probet.* Jerome, *Preface to Job*. Text PL 28.1804A.

⁴⁰ For a fuller accounting of Jerome’s text-critical work, see Karl Kelchner Hulley, “Principles of Textual Criticism Known to St. Jerome.”

translations did not match up.⁴¹ Jerome was intimately familiar with Origen's polyglot edition, and explicitly claims to benefit from the addition of *asterisci* and *obeli*.⁴² For his own work, however, Jerome did not simply pick up the asterisk and obelus from Aristarchus (via Origen) and employ them in his translation to clarify the text. Rather, he resuscitated generally disused tools that he knew from Greek and Latin poetry and repurposed them to apologetic ends, to deal with the problem of Christians entering into theological debates with other biblically-minded communities whose texts differ from Jerome's own, superior edition.⁴³

Already in the early second century Suetonius made clear that the Aristarchan signs had been employed to various ends by Roman scholars for quite some time.⁴⁴ Even in

⁴¹ See Sebastian P. Brock, who clarifies that Origen's use of the Aristarchan signs was not precisely text critical—he was not interested in establishing the “original text”—but rather apologetic, “providing the Christian controversialist with a text that would be acceptable in the authoritative eyes of contemporary Jewish scholars.” “Origen's Aims as a Textual Critic of the Old Testament,” 216(344).

⁴² Jerome, *Preface to Job*.

⁴³ The earliest use of an obelus is probably P. Tebt. I 4, containing part of *Iliad* book two and copied in the mid-second century BCE. Turner, *Papyri and Greek Literature*, 113.

⁴⁴ Suetonius *De Notis*. Text Reifferscheid (ed.) *C. Suetoni Tranquilli Praeter Caesarum libros reliquiae*, fragment 108* (p. 137–141). See also the *Anecdoton Parisinum* (BnF Latin 7530), a late eighth century explanation of paratextual signs that Roman

Antiquity, the Aristarchan sigla were generalized tools without strictly circumscribed significations.⁴⁵ In the Herculaneum and Oxyrhynchus papyri Aristarchan signs generally function as hypertexts, pointing to the existence of a separate commentary or *hupomnēma*.⁴⁶ Jerome too picked up old tools and employed them to solve new problems,

scholars used. This text, as well as Isidore's similar list in *Etymologies* 1.21, was almost certainly based on Suetonius' *De notis*, though it is excerpted and corrupt. Zetzel, *Latin Textual Criticism in Antiquity*, 15.

⁴⁵ "The simple stroke, the chi, the dotted obelus and the dipole in non-Homeric texts seem to have been used predominantly to mark the presence of an interesting point in a line, or as a reference mark indicating the presence of a useful note in a separate hypomnema. But none of these sigla had a tightly restricted significance, and (outside Oxyrhynchus and the second and third centuries) the same jobs were also done by various other sigla. The most useful reminder, for editors, that the meaning of these signs did vary is inconsistent use by scribes of even the very specialized sigla of the system of Aristarchus—and the toleration of those inconsistencies by readers." McNamee, *Sigla*, 25

⁴⁶ "More than half these papyri with unique signs come from towns other than Oxyrhynchus and from centuries other than the first to third. In other words, scribes in Oxyrhynchus in the high Roman period seldom used sigla other than the [simple stroke, the chi, the dotted obelus and the dipole]. This suggests that those signs were part of an approved canon in scriptoria in that time and place. While each of them individually may have meant roughly the same thing: 'look this up!' the repertoire of

motivated by a new focus on aggregation.⁴⁷

The Problem of Discernment in Non-theological Texts

The problem of discernment was not restricted to Christian scholastic productions during the Theodosian Age. The *Theodosian Code* was meant to be an aggregative work, bringing together both in-force and laws “which had fallen into disuse” (1.1.5) as the basis for a future code that could serve as a “guide to life (*magisterium vitae*)”—one worthy to bear the name of the emperor from whose court it arose. Contemporary scholars of Roman law question whether the *Theodosian Code* as we have it—that is, roughly the project as proposed in CTh 1.1.6—also includes disused laws, as the initially codification was intended to have. As promulgated, the *Theodosian Code* apparently did include disused laws, but a full discussion is beyond the scope of this chapter.⁴⁸ My

symbols appropriate for making this point was fairly limited, and only rarely do we find Oxyrhynchite scribes borrowing (or inventing) other marks.” McNamee, *Sigla*, 24.

⁴⁷ Jerome, *Letter* 106.7.2. “These signs are found as well in Greek and Latin poetry (*Quae signa et in Graecorum Latinorumque poematibus inveniuntur*).” Text PL 22.839.7.

The obelus was invented by Zenodotus for use in the Library of Alexandria, but already in antiquity it was most readily associated with the text critical work of Aristarchus. See, for instance, Suetonius, *Lives of Illustrious Men* 14.

⁴⁸ See Sirks, *The Theodosian Code*, 147–151 for an overview of the problem and proposed solutions. For an example of disused laws in the Code, see Marzena

interest is not in the precise legal force of the *Code*, but in its stated intentions, its framing, and its reception. And early collections of commentary on the *Theodosian Code* clearly stress that the collection was intended as a scholarly resource, and explicitly included laws that were no longer in force: as I suggest, laws that were present for the epistemic purpose of aggregation.

The so-called *Summaria antiqua codicis Theodosiani* is a marginal commentary on the *Theodosian Code*, written sometime in the fifth century and extant in the margins a sixth century manuscript of the *Code* now housed at the Vatican Library.⁴⁹ The semi-cursive uncial of the base text gives the impression that it was a private copy,⁵⁰ and the presence of staurograms at the beginning of each fascicle, along with the fact that the

Wojtczak's discussion of *CTh* 16.2.27, and the constitution supervening it promulgated two months later, and presented in the *Code* as 16.2.28. Wojtczak, "Between Heaven and Earth," 155–7.

⁴⁹ Vat. Reg. Lat. 886 (LDAB 7456) Serena Ammirati writes that the manuscript "appartiene verosimilmente ad un'edizione originaria del Codex in due tomi, ciascuno contenente una metà dell'opera." Ammirati, "Per una storia del libro latino antico," 102.

⁵⁰ Thus, possibly in contravention of the rescript of Valentinian III titled *De constitutionariis* which explicitly prohibited the production of unauthorized copies. I discuss this constitution briefly in chapter 6, and return to a fuller treatment in chapter eight.

Latin is rendered in with a stylus cut for Greek,⁵¹ suggests strongly that the text was copied in the Eastern Empire, likely Constantinople.⁵² The base text and the marginal commentary was copied in the early sixth century, but both are products of the fifth.⁵³ The marginal commentary reflects an attempt to categorize and interpret the *Theodosian Code*, with over a thousand numbered and cross-referenced entries which have the effect of negotiating the fraught relationship between the base text as an imperially promulgated code of law with its creation in an aggregative format, as a resource for “more industrious

⁵¹ Ammirati, *Sul libro latino antico*, 101.

⁵² See Ammirati, “Per una storia del libro latino antico,” 104. See also Ammirati, *Sul libro latino antico*, 102, “Precisando dunque la ricostruzione di Radiciotti, si potrebbe sostenere che il Vat. Reg. lat. 886 sia una copia del *codex Theodosianus* allestita a Costantinopoli ovvero in un centro con interessi giuridici nella *pars Orientis*, secondo le prassi di allestimento più tipiche di quell’area (che spiegherebbero i ‘Greek symptoms’), ma esemplato da due mani più aduse alla copia in scritture latine.”

⁵³ “A la base de quelques erreurs dans le texte, et d’autres indications, nous pouvons conclure que ces summaria n’étaient pas composées sur la base du manuscrit Vat. reg. Lat. 886. Ils sont une copie d’une collection composée, du moins partiellement, à base du manuscrit dont Vat. reg. Lat. 886 est à son tour la copie, et peut-être écrite dans une même cursive. Ceci fait remonter la date de leur composition au Ve siècle, c’est-à-dire, après 438. Par conséquent on ne peut pas attribuer simplement leur origine géographique à l’Occident: il est aussi possible que l’exemplaire utilisé du Code Théodosien venait de l’Orient.” Sirks, *Summaria Antiqua*, xi.

people.”

Whether or not the *Theodosian Code* actually included old, disused laws, its earliest readers certainly thought that it did. Throughout Vat. Reg. Lat. 886, the only ancient copy of the *Theodosian Code* in books 9–16, a sixth century scribe copied clarifying notes out of the *Summaria antiqua*, noting next to constitutions over the entire length of the 448 folia such important details as: “this is no longer in force (*haec inutilis est*),” or “this is ancient, and does not hold in this [current] period (*haec antiqua est et non tenet his temporibus*).”⁵⁴ (Figure 7.17) The most common type of marginal note in this manuscript indicates that the statute is no longer in use,⁵⁵ that it is similar to another constitution,⁵⁶ or

⁵⁴ These notes themselves suggest that this manuscript was a private copy, as the official copies, at least according to the Senate acclamations from the reception and promulgation of the *Theodosian Code* in the west, specifically prohibit such *notae iuris* on official copies. *Huic codici, qui faciendus a constitutionariis, notae iuris non adscribantur. Gesta Senatus* 5. (Text Mommsen)

⁵⁵ Noted in one form or another in: *CTh* 10.3n4; 12.1n91, 148, 160, 166, 173, 176; 13.5n5, 10; 15.1n51; 15.7n3, 11; 15.8n1; 16.10n1. The last is interesting, in that it specifically notes that Constantine’s provision for the consultation of the *haruspex* after lightning strikes is no longer in force, clarifying that *haruspices* are no longer consulted about such heavenly portents.

⁵⁶ In this case, the similarity is most often noted with *similis* followed by the number of the note, or *superiori similis*.

that it contradicts another constitution.⁵⁷ Of the 1230 scholia on these eight books of the *Theodosian Code*, fully 25% are of this final type.⁵⁸

⁵⁷ Generally *contaria superiori* or *contraria* followed by the number of the note.

⁵⁸ The number of *scholia* is difficult to pin down, because the scribe responsible for the marginal notes in this manuscript often skips scholia in her/his exemplar. For instance *CTh* 11.1 has two marginal notes, but they are numbered 29 and 37, suggesting that at least 35 notes were skipped or lost by the scribe responsible for the *scholia* in Vat. Reg. Lat. 886. As Sirks points out in his edition, there is good reason to think that the other half of this manuscript contained similar marginal notes from the same fifth century commentary. Sirks, *Summaria Antiqua*, x.

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Figure 7.16. Vat. Reg. Lat. 886 17r, with a staurogram at the upper left denoting the beginning of the fascicle and a marginal note on the right, appearing darker due to use of reagents to reveal the faint brown ink, likely by Angelo Mai.⁵⁹ The base text is *CTh* 9.12.

⁵⁹Niebuhr wrote a letter to Savigny in 1817 about this manuscript, calling the marginal notes “sehr schwer zu lesen, weil sie verblichen sind.” Niebuhr, “Notizen über Handschriften in der Vaticana,” 411–2. The fact that Angelo Mai was able to publish the marginal notes in 1823 (as *Iuris civilis Anteiustinianei reliquiae ineditae*) suggests that it was he who applied the reagents. Sirks rightly notes that the results were

The strange appearance of the Latin text is due to the letters being rendered with a pen cut for Greek.

Image removed due to copyright concerns

Figure 7.17. Vat. Reg. Lat. 886 244r, note 90 on CTh 12.1, reading *haec antiqua est et n(on) tenet hi[s tempor]ib(us)*.

The fifth century *scholia* on Vat. Reg. Lat 886 are those of a scholar—likely a lawyer interested in clarifying which laws are in use, which are not, and what the relationship is between constitutions that have been aggregated for the use of “more industrious types” but that nevertheless present an authoritative promulgation of law.⁶⁰

mixed. “Il faut donc supposer que ce soit lui qui a utilisé le moyen chimique pour les déchiffrer. Quelquefois cela a eu pour effet la détérioration du parchemin, ou l’écartement du texte. La réparation par l’adhésion de papier fin a rendu la lecture de tels endroits encore plus difficile.” Sirks, *Summaria Antiqua*, x. Some notes, like the one in Figure 7.17, were rendered only partially visible through the use of reagents.

⁶⁰ As much as can be said about the identity of the original scholiast is available in Mai, *Iuris civilis anteiustinianei reliquiae ineditae*, xiii–xv; and Sirks, *Summaria Antiqua*,

The centrality of aggregation as an epistemic operation in the Theodosian Age offered scholars in different disciplines the opportunity to innovate, because it necessitated new tools of discernment. Jerome used the obelus and asterisk to offer insight into biblical variance. Scribes transmitting Hilary's theological works employed *ekthesis* and indentation to warn readers when heresy was in their midst. The scholiast responsible for the *Summaria antiqua* created a corpus of marginal notes, complete with idiosyncratic shorthand and cross references between notes to clarify the status of laws promulgated as authoritative, but unequally so. In these and other works of Theodosian era scholarship we see the downstream effects of aggregation as a central epistemic operation. We see fifth century readers responding to a new environment, inventing new book forms and new texts.

New Texts

Kathleen McNamee undertook the most extensive study of the history of paratextual markup in ancient manuscripts.⁶¹ In a *magnum opus* of careful, detailed papyrological scholarship, McNamee demonstrates that the late fourth century was a seminal moment in book history. It was the reign of Theodosius I when “for the first time in the history of the book... books were regularly laid out with the intention that they

xi–xii.

⁶¹ See the collection edited by Laura Jansen for case studies in paratexts in the classical and early imperial period. *The Roman Paratext: Frame, Texts, Readers*.

should include extensive exegesis in the margins.”⁶² McNamee demonstrates a clear link between the reforms of Theodosius and changing bookforms, and she specifically argues that it was the teaching of Latin legal texts in the Greek East after 395 CE that necessitated wide margins that allow for glosses.⁶³ “The fashion [of producing scholastic work with wide margins] quickly spread to literary productions... Like scholia—and unlike the ad hoc notes in other ancient books—the marginalia in these manuscripts were planned from the books’ inception.”⁶⁴ But the known *scholia* in the margins of juristic

⁶² McNamee, *Annotations in Greek and Latin Texts from Egypt*, 79.

⁶³ “In addition to the Aristophanes papyri and this Oxyrhynchus Callimachus, the other annotated literary codices of new format are copies of Aratus, Pindar, Theocritus, Hippocrates, Cicero, Terence, Vergil, and three unidentified authors. Their layout and design resemble the format of law books of a new design that began to appear in about the fourth century... Palaeographers trace this invention to a law school of the Greek east, where Greek replaced Latin as the language of legal instruction after Theodosius divided the empire into eastern and western portions in 395. As dozens of legal texts attest, the liberalization encouraged the production of Greek and bilingual commentaries on Roman law. Presumably, to accommodate students and lawyers whose native language was Greek, it also led to the development of this new design in books, with margins big enough to accommodate lengthy excerpts of commentaries (usually in Greek or Latin and Greek mixed) alongside a legal text (typically in Latin).” McNamee, *Annotations*, 79.

⁶⁴ *ibid.*

texts, beginning with the *Summaria antiqua* discussed above, all *respond* to the aggregative format. The *Summaria antiqua* presupposes an aggregative codex; its commentarial format cannot precede it.

Texts with an aggregative format, which “show signs of having been compiled from multiple commentaries,”⁶⁵ appear only in the fifth century, and the paratextual features that I describe above arise in non-theological works during this same period. McNamee argues persuasively that the Theodosian Age gave rise to an almost complete overhaul in bookforms across scholastic disciplines, because it was the Theodosian Age in which annotation and commentary on primary texts was so foundational as to precipitate a wholesale changeover in the format of books themselves. I argue, however, that the shift in format of Theodosian books did not begin in the law schools of Beirut and Constantinople, being quickly picked up in other scholastic domains. It was Nicene Christians, and not lawyers, who explicitly discuss aggregation, annotation, and commentary as central epistemic operations in the fourth century. And it was Nicene Christians who prized book formats like the wide-margin codex which most readily invited commentarial intervention in the margins, like the Codex Sinaiticus discussed above. They are the proximate source for this innovation, and not lawyers, who arrived at the aggregative party fashionably late.

I have argued that the focus on aggregative scholarship, and the epistemology which underlies it, arose under the influence of a particular set of intra-Christian,

⁶⁵ McNamee, *Annotations in Greek and Latin Texts from Egypt*, 81. McNamee calls these “compilations.”

theological arguments. This epistemology proliferated through other domains of scholarship when Christians came to significant political power—only during the Theodosian Age. McNamee’s analysis already presupposes the inter-disciplinary scholastic interaction that I explore in chapter one.

Let us review the situation. The scholastic model for books, involving compilations of commentaries (labeled or not) and written professionally in very broad margins surrounding the text they explain, is likely to have originated in the context of legal education. It must have quickly been adopted for works of scripture like catenae and for works of the classical authors, which all were extensively read and studied and for which large quantities of exegetic writings existed. Once the prototype of scholia had been established, its point of origin—law schools or sacred scriptoria?—and its very point of entry into scriptorial practice—Beirut, Constantinople, or Gaza?—were forgotten. At the time, these were details of minimal importance.⁶⁶

The details of the origin of new practices of textual production, spurred on by new readers with new expectations, were perhaps of minimal importance in antiquity. But they are of great importance to contemporary historians trying to understand the central question that animates this dissertation: what does it matter that Christianity came to Rome? McNamee’s analysis pinpointed the shift in bookforms, but she did not connect it to a previous shift in readerly expectations among Christians. It is not surprising that she did not notice that Christians came to the aggregative and commentarial format first,

⁶⁶McNamee, *Annotations*, 82.

because her analysis explicitly excludes both Christian materials *and* literary sources: the two archives that might have suggested a rationale for the Theodosian Age revolution in book forms.

New Book Forms

The look and layout of scholastic books changed in the late fourth century. Scholars have suggested a number of possible explanations for this shift. The new readers making new texts may have been jurists, as McNamee argued. They may have been scholiasts of the fourth or fifth century, interested in bringing together commentaries that were traditionally transmitted separately from the lemmatic text.⁶⁷ The problem with this

⁶⁷ As is suggested, for instance, by John Williams White, *The scholia on the Aves of Aristophanes*, lxiv–lxv. “It was probably in the fourth or fifth century of the Christian era, and in Constantinople, that some scholar who knew and valued his Aristophanes and feared that the plays of the poet and the indispensable commentary that had gradually gathered about them might be lost, through the decay and destruction of the papyrus copies that contained them, determined to transcribe on parchment the text of the plays still extant and to place round it on the margins of his book so much of the commentary as was still to be had. This was presumably the first parchment codex of Aristophanes, a big book that preserved in a single volume of convenient form the extant text and commentary...” A similar view is expressed by Carl Wendel, *Scholia in Apollonium Rhodium vetera*, xvii–xviii. A thorough critique of this view is available in Günther Zuntz and Roger Bacon, “Die Aristophanes-scholien der

theory is that it must be inferred in the silence between the rather cursory marginalia on known ancient poetic texts and the full-blown scholiastic tradition received in Medieval manuscripts.⁶⁸

Günther Zuntz put forward an interesting proposal, namely that Rabbis inspired the late ancient interest in wide margin codices with paratextual markup.

There is, in fact, a *catena* from the fifth century, and its form confirms our solution. It is the Talmud. In the middle of Talmudic manuscripts is a section with the oldest biblical interpretation (the “Mishna”), outside of which stands a

Papyri.” For his part, Zuntz sees the tradition of poetic scholia responding to, rather than preceding, biblical *catenae*. “Such then was the medieval archetype of the selection; like those of the other dramatists, it was a book of a type that had not existed in antiquity but had begun to emerge in the pre-iconoclastic period. Its distinctive feature, the combination on every page of text and commentary, had been developed from these antecedents by its originators, humanistically minded ecclesiastics, on the ground of the theological *catenae marginales* with which they were familiar. This new type of a book was uniquely suited to serve the classicist revival of the ‘Macedonian Renaissance’ and to carry the revived tradition on to that later Renaissance which bequeathed it to us.” Zuntz, *An Inquiry into the Transmission of the Plays of Euripides*, 275.

⁶⁸ For a full discussion of the problem with reading the genesis of medieval *scholia* in the fifth century, see Günther Zuntz’s incisive critique of White in “Die Aristophanes-scholien der Papyri: Teil III. Schlussfolgerungen,” 547–601.

collection of exegeses from different interpreters (the “Gemara”). The whole thing is not rare, for instance in von Strack’s facsimile, framed by the “outside commentary,” a rich collection of later explanations, but which, as their text demonstrates, originally stood in different editions. The Mishna (first recorded in the second century) was bound together with the Gemara in the fifth century; the outside commentary comes from the eleventh and later centuries. The rigidity of Jewish tradition makes it certain that the Mishna and the Gemara in the fifth century did not look different as in the twelfth. Thus, philologically speaking, the Talmud represents a fifth century “*catena* with lemmata,” written in the normal form of *hupomnēmata*. And since the eleventh century these “text *catenae*” were presented with a “border *catena*,” no different from how Christian *catenae* looked during this period.⁶⁹

⁶⁹ “Es ist sogar eine Katene aus dem 5. Jahrhundert erhalten, und ihre Form bestätigt unsere Schlüsse. Es ist der Talmud. Talmud-Handschriften tragen in der Mitte jeweils ein Stück ältester Bibelerklärung (die «Mischna»), darunter steht eine Sammlung von Auslegungen verschiedener Interpreten (die «Gemara»). Dies Ganze ist nicht selten, z.B. in der von Strack faksimilierten Handschrift, umrahmt von dem «Superkommentar», einer reichen Sammlung späterer Eiklärungen, die aber, wie aus ihrem Text hervorgeht, ursprünglich in besonderen Heften standen. Die Mischna (zuerst aufgezeichnet im 2. Jh.) wurde mit der Gemara im 5. Jh. verbunden; der Superkommentar stammt aus dem 11. und späteren Jahrhunderten. Die Festigkeit jüdischer Tradition macht zweifellos, dass Mischna und Gemara im 5. Jahrhundert

It is hard to overstate the extent to which Zuntz's proposal is misguided. There are no Talmud manuscripts from the fifth century, and his proposal for the similarity of fifth and eleventh century is based entirely on an unconsidered stereotype about Jewish tradents and their texts ("...die Festigkeit jüdischer Tradition..."). Beyond this, there is no reason to think that Talmudic material was committed to writing during the fifth century, or in any of the centuries immediately following. Add to this the fact that Zuntz explicitly writes of the Babylonian Talmud, which did not coalesce until around two centuries after period under discussion, and it is easy to put the suggestion aside on account of his failure to grasp basic facts about the tradition.⁷⁰

nicht anders aussahen als im 12. Der Talmud stellt also, philologisch gesprochen, eine «Textkatene mit Lemmata» aus dem 5. Jahrhundert dar, geschrieben in der Normalform des Hypomnema; und diese «Text katene» wurde seit dem 11. Jahrhundert mit einer «Randkatene» versehen, nicht anders, als das auch vielen christlichen Katenen in dieser Zeit geschah." Zuntz, "Die Aristophanes-scholien der Papyri: Teil III. Schlussfolgerungen," 580.

⁷⁰Nigel Wilson's critique of Zuntz is altogether underwhelming as well, predicated as it is solely on a theological (and indefensible) presumption about the interests and abilities of late ancient Christians *writ large*. "The alternative hypothesis, put forward by Zuntz, is that Procopius took as his model the Talmud. This seems chronologically quite possible, but I know of no evidence that Procopius knew Hebrew literature, nor does it seem to me intrinsically very likely that a Christian of that date should do so." Wilson, "A Chapter in the History of Scholia," 254.

But, Zuntz's proposal is not altogether mistaken. While there is no reason to think that any of the evidence that he offered bears on the question of "whence the *scholia/catena* tradition?", Zuntz is nevertheless quite right to point out what appears to be an insuperable set of coincidences in the fifth century. During the Theodosian Age a particular and peculiar form of literary/commentarial production, based on the aggregation of sources, appeared in a wide variety of traditions. In the case of the Talmudic material that was beginning to coalesce in the late fourth century (which is to say the Palestinian rather than the Babylonian Talmud), there is no reason to think that the rabbis responsible explicitly modeled their work on biblical *catenae* or florilegia, nor vice-versa. But the *Palestinian Talmud* nevertheless *does* model some of the features of the Theodosian Age structure of knowledge known from other sources, like the *Theodosian Code* and the Christian theological scholarship discussed in chapters two and three. To the extent to which the *Palestinian Talmud* takes part in the Christianized structure of knowledge, it may be said to be influenced by Christian ways of knowing, even (and perhaps especially) when the scholars quoted in the Talmud reject the preceptual truths held by members of the Theodosian court. And, to the extent to which the *Palestinian Talmud* differs from the Sassanian recension of the tradition, while correlating with features of Theodosian epistemic frameworks, we can perhaps further situate it as provincial Roman literature. I return to this is an argument in chapter eight.

For the moment, it is important simply to point out that the physical form of books, and the intellectual projects contained within their leaves, changed dramatically during the late fourth and fifth centuries. Scholars have proposed a wide variety of unsatisfactory solutions to a set of changes visible across the Roman scholastic spectrum that all agree

cannot be reduced to mere coincidence. In the Theodosian Age, a variety of new readers made new texts. I have argued that the common denominator among these new readers is their individual reactions to Christian ascendancy, and to the institution of a novel epistemic regime inflected by a century of doctrinal dispute. The intention and epistemic expectations of jurists and scholiasts must be read from the fact of their literary productions, and the reason that jurists in the fifth century, and scholiasts of Late Antiquity (perhaps) shifted to preferring wide-format books capable of receiving significant paratextual markup is far from clear.⁷¹ Nicene Christians, on the other hand,

⁷¹ There is evidence from the Theodosian Age as well that *scholia* were still considered to be separate works, and not commentaries in the sense of which we speak about medieval *scholia*. Jerome, for instance, claims that Origen wrote three types of “works”—Extracts/*scholia* (*excerptae/σκολιαί*), homilies, and books (*volumina/τόμοι*). “The first such work are extracts (which are called *scholia* in Greek), in which those things which seemed to him to be obscure or to engender some difficulty he touches upon in summary, and briefly. The second type is the homily, from which the present [work] was translated. The third, which he himself called *tomes*, we might call books (*Primum eius opus Excerpta sunt, quae graece σχόλια nuncupantur, in quibus ea quae sibi videbantur obscura aut habere aliquid difficultatis, summatim breviterque perstrinxit. Secundum homeliticum genus, de quo et praesens interpretatio est. Tertium quod ipse inscripsit τόμους, nos volumina possumus nuncupare...*).” Jerome, *Preface to the Fifteen Homilies on Ezekiel*. Text *PL* 25.585A–586A.

tell us explicitly why it is that such new book forms as define the Theodosian Age should arise, and their own internal shift began already during Constantine's reign.

Christian Tools in Traditionalist Texts

At the end of chapter two I discussed the curious case of Vatican Reg. Lat. 2077, a sixth century codex comprising the works of Eusebius of Caesarea, Gennadius of Massila, and Vegetius. It is an odd collocation of materials; the codex includes works ranging from historical chronicle to military history. An invocal frame at the beginning and end of this manuscript only bolsters its peculiarity: "Christ give help to the one desiring to know you (*Christe adiu[v]a desiderantem te nosse*).” So far as our evidence indicates, the explicit aggregation of both secular and sacred works into a single codex with this kind of Christian frame did not occur during the Theodosian Age. There are no extant fifth century codices that bind works of Livy together with those of Ambrose. But, there are codices of Livy that use tools, framing devices, shortcuts, and notational forms known only from Christian scribal practices. While there isn't a copy of Vergil's works bearing a cross on its cover, I discuss below one Vergilian codex that uses peculiarly Christian formulae for writing the name of the deity, and another that was apparently copied in an Italian scriptorium which produced Traditionalist classics like the *Aeneid* alongside one of the most exquisite biblical manuscripts to survive from antiquity. And, while we do not have Theodosian juristic manuscripts bearing crosses, we do have a copy of the *Theodosian Code* that uses staurograms as binders' marks, and we have a papyrus with quotations from Papinian, Ulpian, and Paul that employs scribal tools known otherwise only from Christian manuscripts.

The following section details manuscripts in which scribes copied non-Christian works using Christian scribal tools. I will describe the proliferation of Christian scribal practices through products of Theodosian Age scriptoria in order to trace the influence of Christianity in a manner that does not involve speculation about the faith of scribes of these texts, or these texts' users. The generalization of originally Christian scribal tools, and their reuse in works of no obvious theological import, is an aspect of Christianization. I follow that aspect below.

Nomina Sacra and Nomina Vulgaria

Ancient scribes employed a wide range of tools to simplify their texts, to remove extraneous verbiage, and to save space on parchment, papyrus, or stone. Often final a *N* or *M* in Latin manuscripts, or final *Nu* in Greek, is indicated simply with a short supralinear stroke.⁷² Especially in late ancient legal manuscripts, common words are often abbreviated with a stroke across the descender—for instance *P* for “per.”

Scribal tools utilizing supralinear strokes fall into two broad categories: abbreviations and contractions. ‘Supralineate abbreviations’ simply omit letters from the word, generally those letters after the first one or two, and indicate the omission with a small stroke above the word in question.⁷³ The other broad category comprises

⁷² This type of abbreviation is most commonly employed at the end of lines, but is not exclusively employed in this way. For one example of a final *M* indicated with a supralinear stroke in the middle of a line, see figure 7.31 below.

⁷³ “Non,” for instance, becomes *N̄*. Supralineate abbreviations show up somewhat earlier

‘supralineate contractions,’ in which letters are omitted from the middle of a word that remains inflected, and identified with a supralinear stroke.⁷⁴

The most recognizably Christian scribal practice is the use of so-called *nomina sacra*—supralineate contractions that are traditionally restricted to a relatively circumscribed set of lemmata. The peculiarly Christian nature of *nomina sacra* in literary texts has been widely recognized since the pioneering work of Ludwig Traube in the late

in the Greek corpus, but still are often reserved for titles. See, for instance, *IG II²* 4215, an inscription from the Theater of Dionysus in Athens (inventory NK276) honoring Tiberius Claudius Callippianus Italicus that reads Τιβ · Κλ · Καλλιππιανὸν Ἰταλικόν. It is notable here that 1) the name is only partially abbreviated, 2) the words with supralinear strokes are not inflected (making them abbreviations rather than contractions), and 3) the scribe has indicated the abbreviation in two different ways—with supralinear strokes as well as with small diamonds after the first two parts of the name. As Avi-Yonah points out, most Greek inscriptions before the fourth century, when they indicate contractions, do so with diamonds, dots, wedges, or the like, rather than supralinear strokes. Avi-Yonah, *Abbreviations in Greek Inscriptions*, 29–38. The use of both in this case may indicate the relative obscurity of the supralinear stroke to indicate abbreviations still in the late second/early third century, to which this inscription is dated.

⁷⁴In Greek, for instance, Θεός will become ΘΣ in the nominative, or ΘΥ in the genitive, both accompanied by a supralinear stroke. The same occurs in Latin—Deus will become DĪ in the genitive, or DŌ in the dative.

nineteenth century, and a number of studies have followed up on Traube's conclusions about the Jewish origin of this particular scribal practice and its expression in early Christian manuscripts.⁷⁵ Arthur E. Gordon traced the use of supralineate abbreviations and contractions in the *CIL*,⁷⁶ and concluded that the corpus leads one to "observe how late contraction is in beginning and how few there are in comparison with [abbreviations]; also how preponderantly Christian it is in its application."⁷⁷ The earliest securely dateable use of *nomina sacra* in a literary context occurs in P. Dura 24,⁷⁸ and

⁷⁵ Traube, *Nomina Sacra*. See especially p. 133ff. See also more recently Anton Paap, *Nomina Sacra in the Greek Papyri* and Hurtado, "The Origin of the *Nomina Sacra*: A Proposal."

⁷⁶ Gordon worked from the *CIL* as published before 1936: that is, the 8,622 inscriptions in volumes 1–15, as well as the supplemental material from military diplomas included in volume 16. For a justification of his method, see Gordon, "Supralineate Abbreviations in Latin Inscriptions," 60–62.

⁷⁷ Gordon's text says "suspension," but his language throughout is inconsistent—he uses "suspension" and "abbreviation" interchangeably. I have substituted "abbreviation" for the sake of consistency with my terminology below. Gordon, "Supralineate Abbreviations in Latin Inscriptions," 109.

⁷⁸ TM 61914, with a *terminus ante quem* of 256 due to the fragment's discovery in the ruins of Roman Dura. *Nomina sacra* appear in the graffiti at Dura dated to 232–3, as well, though without a supralinear stroke. Rostovtzeff and Baur, *Excavations at Dura-Europos, Report for 1931/2*, 241. Per Avi-Yonah, "Such unmarked *nomina*

they arrive in the Latin epigraphic record only with an epigram of Damasus from the late fourth century.⁷⁹

Yet, during the Theodosian Age and immediately thereafter, this markedly Christian scribal practice found its way into wider usage among non-theological works, as did the practice of contracting words like *deus* when the term refers transparently to traditional gods of Rome, and not to the Christian deity. The so-called “Roman Vergil” (Vat. Lat. 3867, TM 62975) dates paleographically to the later fifth century: perhaps as

sacra continue to crop up in the course of centuries, but they probably represent little more than individual freaks.” Avi-Yonah, *Abbreviations in Greek Inscriptions*, 27.

Other biblical papyri paleographically dated to the second and third centuries use the technology as well, though their dates are less secure.

⁷⁹ *Damasi Epigrammata* (ed. Ihm), no. 12 line 5 (p. 18, plate 4). The next earliest dated Latin use of a *nomen sacrum* for *deus* (in Latin) comes from a votive dated to 408 from Mercha-Sfa, in modern day Algeria. *CIL* VIII 2551. While I have focused here on Latin exempla, the pattern largely holds for Greek inscriptions as well. There appears to be only one Traditionalist Greek inscription that uses a *nomen sacrum*: ΘΩ for θεῶ in Waddington 2455, from 207 CE. Avi-Yonah rightly notes that this is perhaps an accident, and further that in the Greek epigraphic corpus, “the development of contractions can be divided in to two distinct periods: the pagand and the Christians. The contractions in both periods differ in quantity, technique, and subject-matter.” Avi-Yonah, *Abbreviations in Greek Inscriptions*, 25–6.

early as the late Theodosian Age, though more likely in the decades following.⁸⁰ It is among the most beautiful illustrated manuscripts of Late Antiquity, and along with the *Vatican Vergil* (Vat. Lat. 3225, TM 65873) is one of only two illustrated manuscripts to survive of Antiquity's most famous poet.⁸¹ The first folio of this fifth century luxury copy includes a beautiful miniature depicting the two main characters in Vergil's first *Eclogue*, and underneath a striking scribal form: a *nomen sacrum* in line 6, which reads "Oh Meliboeë, a g(o)d has created this leisure for us."⁸² (Figure 7.18)

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Figure 7.18. Vat. Lat. 3867, 1r. The "Roman Vergil."

Traube rightly recognized that a contracted, supralineate form of *deus* is a remarkably odd usage for this text. It seems that the scribe thought so, too; for, when the copyist transcribed the next line of the exemplar, they chose a more obvious form—*deus* in plene form, without contraction. In fact, only twice in this codex of 309 folia does the

⁸⁰ See Lowe CLA 1.19, Richard Seider, "Beiträge zur Geschichte und Paläographie der antiken Vergilhandschriften," 144–147 for an analysis of the paleography, as well as Franz Steffens, *Paléographie latine*, pl. 19.

⁸¹ On the relationship between the text and the illustration in this codex see Pascal Weitmann, "Bilder als Vergegenwärtigung des Textes," 2–4.

⁸² *O Meliboeë, d(eu)s nobis haec otia fecit.* Vergil, *Eclogue* 1.6.

single scribe use a *nomen sacrum*.⁸³ In his own analysis of this strange usage, Traube remarked that “[the scribe’s] intention was to keep the classical text free from Christian abbreviations, but in these two places the habitual form has escaped his stylus...” presuming that in this instance, a slip of the pen betrayed the scribe as a Christian. “...Perhaps it was a monk.”⁸⁴

⁸³ Other places where s/he might have used *nomina sacra* have no such forms. See, for instance, *Eclogue* 5.64 on 13r which reads *deus deus ille* in plene form, or *Georgics* 2.392 on 56v, in which an abbreviation renders *et quocumque deus* as *ETQUOCUMQ:DEUS*. The scribe in question is not committed to plene forms (*M* and *N* at the end of lines, for instance, are almost always abbreviated with a supralinear stroke) but they only employ *nomina sacra* twice. One might expect to find *nomina sacra* in *Eclogue* 4 if anywhere, given the subject matter and its common reinterpretation in Late Antiquity as presaging the coming of the Christ child. (See, for instance, Lactantius, *Divine Institutes* 7.24 and Constantine’s *Speech to the Assembly of the Saints* preserved in Eusebius, *Life of Constantine* 4.32.) But there are no ancient manuscripts of *Eclogue* 4 that contain any such form.

⁸⁴ “...seine Absicht war es wohl, den classischen Text von christlichen Compendien frei zu halten, aber die gewohnte Form ist an diesen zwei Stellen dennoch seiner Feder entschlüpft. Velleicht war es in Mönch...” Traube, “Das Alter des Codex Romanus des Virgil,” 312.

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Figure 7.19. Vat. Lat. 3867, 86r. *Aeneid* 1.303, where $\overline{D}O$ expands to *d(e)o* in *corda volente deo; in primus regina quietum*.

Perhaps it was a monk. But such a presumption is just that—something that the historian might assume based on the scribe’s use of a form typically reserved for biblical manuscripts and theological tractates. Since it seems likely that this scribe had used *nomina sacra* before taking up the task of copying a luxury edition of Vergil’s works, the most likely explanation is surely, per Traube, that “in these two places the habitual form has escaped his[her] stylus.” But suggestions of a theological commitment underlying this bit of scribal somnambulism are less secure, and less plausible. Biblical transcription does not a Christian make, just as the fifth century philosopher Marius Victorinus argued presence or absence from a Church building did not reveal interesting information about an individual’s beliefs.⁸⁵ Instead, I suggest that this manuscript was produced in an environment so thoroughly Christianized that what scribal practices that were once the strict purview of professing Christians had become a generalized tool of the trade.⁸⁶

⁸⁵ Reported in Augustine, *Confessions* 8.2(4), and discussed in chapter 1.

⁸⁶ By way of comparison, the *Palatine Vergil* (Cod. Pal. Lat. 1631, TM 65875) which dates paleographically to the same period, almost certainly comes from the same

scriptorium, and contains the same text on 1r, but does not use a *nomen sacrum*. For an overview of the scholarship on paleographic dating of this manuscript see McCormick, *Five Hundred Unknown Glosses from the Palatine Virgil*, 3n7. On the scriptorium see Alessandro Pratesi, “Nuove divagazioni per uno studio della scrittura capitale,” 19–28. “Il Virgilio Palatino e il Virgilio Romano, entrambi manufatti di lusso (e particolarmente il secondo, che condivide con il Vaticano la peculiarità di essere illustrato), rappresentano l’unico caso nel quale l’affinità grafica tra due codici in capitale può essere affermata senza il minimo dubbio in quanto sicuramente frutto di una medesima tipizzazione...” *ibid.*, 19. Pratesi argues for a sixth century date for the *Roman Vergil* on the basis of the use of *nomina sacra*, asserting “Dal momento che l’adozione di tali compendi in un testo profano, per quanto occasionale, presuppone che il sistema si sia talmente diffuso da venir adoperato spontaneamente da uno scriba anche al di fuori delle sue sedi naturali, ne consegue che il codice non può essere assegnato al IV e neppure al V secolo.” *ibid.*, 22. His assertion is unconvincing on its face because it is based on no data whatsoever. The argument for a late fifth century *terminus post quem* based on an interpolation apparently attributable to Priscian (first argued by Norden, “Das Alter des Codex Romanus Vergils,” 473–474) is intriguing, but unconvincing again because it is based again on assertions which have no obvious data to support them, like “Dal momento che dovette necessariamente trascorrere qualche decennio perché la versione prisciana si diffondesse al punto di indurre qualche lettore a estrapolarne quel verso e trascriverlo in un manoscritto dell’*Eneide* come chiosa marginale alla descrizione dell’antro di

Literature is not the only domain where Christian scribal tools were re-used during the Theodosian Age. There is, in fact, a juristic papyrus dated to the Theodosian Age that uses the tool of supralineate contractions—*nomina sacra*—in a rather less spiritual manner. It employs, one might say, *nomina vulgaria*.

P. Haun III 45, along with fragments belonging to the Arangio-Ruiz private collection (*CPL* 73 A, B), comprises an ancient handbook on the topics of legacies (*legati*) and trusts (*fideicommissa*): a work of scholarship bringing together opinions of the five jurists mentioned in the *Law of Citations* under useful thematic groupings.⁸⁷ The

Avemo e perché successivamente un amanuense che si servì come exemplar di quel manoscritto inserisse direttamente quello stesso verso nel contesto virgiliano, la datazione del Romano andrà fissata intorno alla metà del secolo VI.” *ibid.*, 22.

⁸⁷ The text itself is a collection of papyri from the same fourth century codex, including one large sheet in two columns, two smaller but still substantial fragments, and a number of scraps. It was initially published by Vincenzo Arangio-Ruiz, “Frammenti papiracei di un’opera della giurisprudenza,” and has been republished many times since, including in *CPL* 73, Larsen and Bülow-Jacobsen, *P. Haun III*, 11–23, and most recently in Fara Nasti, *Papyrus Hauniensis de legatis et fideicommissis*. Marco Fressura is currently preparing a new edition for the *Rediscovering the Hidden Structure* project at the University of Pavia, under the direction of Dario Mantovani. It is unclear whether this is a contiguous codex or an opisthograph containing two similar juristic texts. The answer to this question, for the purpose of my argument, is irrelevant. My conclusions hold for both sides of all fragments.

compiler of this text is unknown, but there is reason to believe that it was originally put together in the late third or early fourth century, and that this copy was produced in the late fourth or early fifth.⁸⁸

⁸⁸ Serena Ammirati surveyed the available evidence and came to the conclusion that

“...soprattutto è confrontabile con la scrittura di *P. Rylands* III 472, frammento di un codice di papiro di contenuto liturgico. Come detto, una datazione al iv secolo appare plausibile, ma tenderei ad abbassarla verso gli ultimi anni del secolo...” Ammirati, *Sul libro latino antico*, 87. Later in the chapter (p. 89), she offers a date for *P. Haun* III 45 of the late fourth to the early fifth century. Her assessment agrees with that of Lowe (*CLA* Supplement 1756), and Fara Nasti, “Nuovi dati da PHaun. III 45,” 3. For his part, Detlef Liebs dates the text itself to sometime between 213 and 326, and suggests that the papyrus needn’t be understood as being copied significantly later than its composition. Furthermore, he cites *CTh* 1.4.1 (a constitution of Constantine calling for the destruction of the *notae* of Ulpian and Paul on Papinian) as a *terminus ante quem* for the text’s composition and copying into these fragments, on the basis that it would be unlikely that a jurist would produce a text such as this after the order to destroy such sources. The fact that notes which were supposed to be “destroyed” were nevertheless reissued around the year 500 (*CLA* 1037/Berlin Staatliche Museen P. 6762, Berlin Staatliche Museen P. 6763, Paris Louvre 7153/TM 62356, published by Paul Krüger, in *Collectio librorum iuris anteiustiniani*, 3.285-96) suggests both that the *notes* indeed continued to circulate; Liebs’s *terminus ante quem* is hardly compelling, and the argument was succinctly put to rest already before Liebs’ edition

The juristic opinions included were previously lost to posterity; they were not transmitted in the *Digest* or any of the late antique compilations.⁸⁹ For this reason, the legal content of the papyrus has received the vast majority of critical attention, and its form and scribal peculiarities have gone largely unremarked-upon.⁹⁰

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Figure 7.20. P. Haun III 45, selection from lines 85 and 86, photographed in both visible light and infrared. In the center of the upper line we see a P with an ascending line across the descender indicating *per*, and on the second line $\bar{P}\bar{P}$, $\bar{Q}\bar{A}$ and $\bar{N}$ for *propter*, *quia*, and

by D'Ippolito and Nasti, "Diritto e papiri," 154. The entire issue of dating in Liebs relates to the date of likely composition, and fails to deal with the clearer paleographic dating to the fourth/fifth century. Liebs, "P.Haun. 45," 489–90.

⁸⁹ Arangio-Ruiz, "Frammenti," 6. See also Liebs, "P.Haun. 45," 489–90.

⁹⁰ See, for instance, Nasti. "Nuovi dati da PHaun. III 45."

non, respectively. Line numbers are according to Larsen and Büllow-Jakobsen.

The scribal peculiarities of this papyrus are astonishing. The manuscript was likely that of a scholar,⁹¹ and incorporates both traditional supralineate abbreviations, for instance $\overline{PP}$ for *propter*, $\overline{QA}$ for *quia*, and $\overline{N}$ for *non*, as well as other typical juristic abbreviations like P with an ascending stroke across the descender for *per*.⁹² Examples of

⁹¹ Given the *Law of Citations*, this papyrus is unlikely to have been intended as a juristic manual for practice, and therefore must be scholastic. On this argument see Fara Nasti, “Teodosio II, Giustiniano, Isidoro e il divieto di adoperare «siglae».” The brief interlinear and marginal notes in this papyrus suggest that it was used for study in some capacity, though the fragmentary nature of the piece makes more specific speculation as to use difficult. See also D’Ippolito and Nasti, “Diritto e papiri,” 154.

⁹² Steffens catalogued the typical juristic abbreviations (*notae iuris*) in *Paléographie latine*, XXXIII. For *fideicommissorum* he lists $\overline{FIDC}$ —that is, an abbreviation and not a contraction. Steffens’s table is hand-written, and takes examples from manuscripts through the middle ages; it is hardly useful for identifying shifts in juristic notation over time. These juristic abbreviations, it should be noted, are not the same as were detailed by Probus in his *De notis antiquis*, which provide expansions for the abbreviation of phrases, for instance *STA* as *s(ine) t(utoris) a(uctoritate)*. (*De notis* 5.17) or *SSCSDETV* for *s(ecundum) s(uam) c(ausam) s(icuti) d(ixi) e(cce) t(ibi) v(indicta)*. (*De notis* 4.6) Text Mommsen, *M. Valerius Probus: De notis antiquis*, 119–127.

these can be seen in Figure 7.20.⁹³ But this papyrus contains not only traditional scribal abbreviations that we might cluster under the loose heading *notae iuris*. It also includes supralineate *contractions* of common words.⁹⁴ It contains, in other words, the type of scribal tool that papyrologists would normally cluster under the heading *nomina sacra*.⁹⁵ Consider, for instance, Figure 7.21, in which the scribe of this papyrus abbreviates

⁹³ Photographs were generously provided from the Copenhagen collection by Adam Bülow-Jacobsen.

⁹⁴ On the history of supralineate abbreviations and contractions in juristic manuscripts, see Schiapparelli, “Note paleografiche,” 267–272.

⁹⁵ The use of supralineate contractions in this papyrus has gone largely unnoticed because no editor (and there have been five) has remarked upon them. Arangio-Ruiz, Cavenaile, and Liebs do not even identify the supralinear strokes in their editions, preferring simply to expand the contractions. The abbreviations were noted by Larsen and Bülow-Jacobsen in their edition, but only as “Kürzungen (die sogenannten *notae iuris*), die derselben Art wie die sonst gebrauchten sind, s. Steffens, *Lateinische Paläographie...*” Larsen and Bülow-Jacobsen, *P. Haun III*, 11. Additionally, they helpfully indicate the supralinear strokes in the apparatus that follows their transcription. The most recent editor of the papyri, Fara Nasti, discusses the use of supralinear abbreviations and contractions (see for instance, *Papyrus Hauniensis de legatis et fideicommissis*, 34–5) but offers that the presence of these tools points only to “un uso tecnico del testo, scolastico, pratico o di cancelleria.” Nasti, *Papyrus Hauniensis de legatis et fideicommissis*, 40.

fideicommissarius as $\overline{FCRIUS}$.

Throughout this papyrus a specific set of lemmata relating to the subject under discussion (*testamentum*, *fideicommissum*, and *heres*) are consistently contracted, marked by a supralinear stroke, and inflected. Figure 7.22, for instance, shows the contraction of *testamentum* inflected in the ablative to read $\overline{TT}(AMENT)O$.

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Figure 7.21. *P. Haun* III 45, selection from line 65 photographed in both visible light and infrared. The line reads $\overline{FCRIUS} EO q$, with a supralinear stroke over the *FC* and an ascending stroke through the descender of the *Q*. Expanded, the phrase is

f(idei)c(ommissa)rius eo q(uod).

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Figure 7.22. *CPL* 73 B *recto*, detail reading *SECUNDO* $\overline{TT}O RE$. From line 70 as published in Nasti, corresponding to the lacuna in line 60 of Larsen and Bülow-Jacobsen.

This fragment is in the Arangio-Ruiz collection and the photo is from CLA Supplement

1756.

Manuscript Reading	Expansion	Lines attested
AT	a(u)t(em)	37
D̄	d(iuum)	40
Ē	e(st)	2, 16
MGE	m(a)g(is) e(st)	70
N̄	n(on)	24, 44, 45, 55, 86
P̄	p(rae)	3
PP	p(ro)p(ter)	38, 86
POMP	Pomp(onius)	15
QD	q(ui)d(em)	96
TM	t(a)m(en)	85
TMN	t(a)m(en)	70
Ū	u(el)	5, 13, 18, 19, 44

Figure 7.23. Supralineate abbreviations in P. Haun 3.45 identified by Larsen and Bülow-Jacobsen. Line numbers follow their edition.⁹⁶

Manuscript Reading	Expansion	Lines attested
EE	e(ss)e	45
FC	f(idei)c(omissum)	38, 39, 45, 46

⁹⁶Nasti, *Papyrus Hauniensis de legatis et fideicommissis*, 35–40, suggests a different typology of abbreviations in this papyrus, with another category of “truncamenti sillabici” which includes the uninflected form of *f(idei)c(omissum)* abbreviated as $\overline{FC}$, along with, for instance, *q(uae)rit* abbreviated as $\overline{QRIT}$. A separate category of “syllabic truncations” would be more defensible if the same words were not also inflected differently in the same papyrus, as for instance *f(idei)c(omissa)rii* is rendered as $\overline{FCRII}$, and *q(uae)ritur* as $\overline{QRITUR}$.

FCRII	f(idei)c(omissa)rii	56
FCRIUM	f(idei)c(omissa)rium	37
FCRIUS	f(idei)c(omissa)rius	65
FCORUM	f(idei)c(omissari)orum	60
HDEM	h(ere)dem	31, 64, 82
HRES	h(er)es	20, 65(?)
HTAS	h(eredi)tas	80
HTE	h(eredita)te	71
HTEM	h(eredita)tem	81
QA	q(ui)a	11, 13, 47, 58, 75, 81, 86
QD	q(ui)d	17
QRIT	q(uae)rit	20, 55
QRITUR	q(uae)ritur	104
TTO	t(estamen)to	17, 23, 31, 60

Figure 7.24. Supralineate contractions in *P. Haun* III 45 identified by Larsen and Bülow-Jacobsen. Line numbers follow their edition.

This papyrus presents the earliest example of supralineate contractions in a juristic context. In fact, it presents the earliest use of supralineate contractions in any Latin manuscript that is not explicitly Christian. In addition, the closest paleographical parallel to this papyrus is not another juristic fragment, but *P. Rylands Greek* 472: among the earliest known Latin Christian papyri.⁹⁷ Serena Ammirati argues persuasively that these

⁹⁷ This Latin fragment has a Greek catalogue number because it is conserved under glass with another fragment, *P. Ryl. Gr.* 473, a second or third century copy of Sallust's *Histories* (also Latin) which was reused on the verso to copy a Greek astrological treatise from Oxyrhynchus, catalogued as *P. Ryl. Gr.* 527. Larsen and Bülow-Jacobsen initially proposed the paleographical comparison in their edition of *P. Haun* III 45. See also a stronger restatement of the parallel by Serena Ammirati, "Per una storia del libro latino antico," 72.

two manuscripts must be understood as arising out of a similar, bureaucratic (to which I would add “scholastic”) context.

Books of law represent the specific professional interests of individuals who are simultaneously producers and users of Latin books with literary content. If the users of books containing literary and juristic content belong to the same professional category, it is reasonable to expect that these books would share formal characteristics.⁹⁸

Christians are the ultimate source for such a thoroughgoing and standardized use of supralineate contractions; by the time that the scribe of P. Haun III 45 put pen to papyrus they had been used in biblical manuscripts for over two hundred years. A full account of this papyrus, however, will identify the *proximate* source for this scribe to import the technology of supralineate contractions into the juristic domain. The cluster of coincidences—a Theodosian date, the closest parallel being a Latin liturgical fragment, and the bureaucratic or scholastic environment of both papyri—suggests that this papyrus presents precisely the reuse of the technology of *nomina sacra* in a juristic context.⁹⁹

⁹⁸“I libri di diritto rappresentano gli interessi professionali specifici degli individui che sono contemporaneamente produttori e fruitori dei libri latini di contenuto letterario. Se i fruitori di libri di contenuto letterario e giuridico appartengono a una medesima categoria professionale, è lecito aspettarsi che tali libri condividano le loro caratteristiche formali.” Ammirati, “Per una storia del libro latino antico,” 72.

⁹⁹Franz Steffens too suggested that the use of supralineate contracted forms (and

The distinction that I draw here, between traditional juristic abbreviations and these new contracted forms, may seem to be inconsequential, or at least too arcane to offer fruitful insights into Late Antiquity. Quite the opposite is true. The use of this peculiarly Christian tool in a context so remote from theological study shows precisely that in the Theodosian Age, what used to be the oddities of Christian scribal practice were no longer odd, nor were they particularly Christian in implementation or meaning. A scribal tool that was invented for biblical manuscripts was re-used to simplify a legal handbook. We cannot see into the mind behind the pen, nor can we probe the propositional truths held by these scribes. What they believed is inaccessible, but perhaps it is also not particularly interesting. What is clear is that the scribe of P. Haun III 45, and the scribe of the Roman Vergil above, appropriated a tool that was once the solely purview of theological works and re-used it in a new context with new aims. A late ancient reader may well have approached these manuscript with the same historical incredulity expressed by Traube and others regarding the use of a “Christian” tool in a “Pagan” context. She might also have passed over these *nomina vulgaria* without giving them a second thought, as has been the case for most modern editors of the Haun papyrus. But there is another way to

especially when inflected, as in his “Group 3”) in juristic texts is the result of Christian forms of contraction finding their way into juristic materials. “...c’est ainsi que la méthode d’abréviation des manuscrits chrétiens—l’abréviation par contraction—se trouve introduite dans les manuscrits de droit...” Steffens, *Paléographie latine*, xxxiii. He simply did not have the manuscript evidence to support his claim.

read these manuscripts.

If we assume that the scribe was in fact a Christian, and purposefully used a theological tool while copying a Traditionalist text, then we can speak of ideological and textual “Christianization” happening in late antique scriptoria. If, on the other hand, these scribes made casual mistakes or technological transpositions, unintentionally inserting tools from Christian scribal practice into non-theological texts, then we can speak of the technological “Christianization” of late antique scriptoria still. In the latter case the point is doubly made: during the Theodosian Age, in non-theological manuscripts scribes began to use tools that were forged in scriptural fires, and they used these tools without obvious implication. The fact that these *nomina sacra* and *nomina vulgaria* appear at all attests to the thoroughgoing Christianity of the scholarly and scribal context, quite apart from the beliefs of *any* of these texts’ producers. Scribes reusing Christian tools and symbols in non-theological contexts is interesting if it is value laden—if the producers of texts intend to “Christianize” manuscripts of non-Christian texts. But it is even more interesting if the importation of *nomina sacra*, and the other symbols of Christianity discussed below, are employed completely devoid of theological or ideological meaning.

By way of analogy, imagine that the fascist era in Italy had lasted one hundred and forty years, from 1912 to 2051, rather than from 1922 to 1943. If, in the twenty-teens, the symbol of the fasces began to be used as arrows on highway signs, pointing the way for travelers to the closest fuel station or roadside motel, we could not responsibly presume that the maker of the sign was a supporter of Mussolini’s policies. Instead, the most natural interpretation would be that the sign of the fasces, which was introduced one hundred years earlier as a symbol of military might and political ascendancy, had become

so naturalized in the social environment that its meaning was no longer inextricably connected with the ideology that it was originally intended to signify. Much the same happened in the Roman Empire of the fourth and fifth centuries: symbols of military might and political ascendancy like the staurogram, as well as scribal tools like *nomina sacra*, came to be used in dramatically new ways. It would be historically irresponsible to interpret such usages as indicating something about the faith of the user. But they may evince something about the culture in which the user lived.

Consider, for instance, Vat. Urb. Lat. 1154 (TM 66216), a late fifth century copy of the grammatical work of (pseudo-)Probus.¹⁰⁰ The textual tradition of pseudo-Probus was already complex in Late Antiquity, and at least three different hands supply additions in the margins of this manuscript. One addition in a contemporary half-uncial spans both the upper and lower margin of 20v, where the traditional **hs** in-line points to the marginal insertion. Instead of using the traditional **hd** in the margin to indicate that the marginalia is the text to be inserted, as this corrector uses elsewhere in the manuscript,¹⁰¹ here the

¹⁰⁰ Date of hands following Lowe *CLA* 1.117. Edition Heinrich Keil, *Grammatici Latini* vol. 4, 49–192. Keil used Vat. Urb. Lat. 1154 along with Codex Vindobendensis 17 (now Naples Latin 1) for his edition, though he only knew the Vatican manuscript through Lindemann’s transcription. For an analysis of this tradition and the manuscripts that witness it, see primarily De Nonno, “I codici grammaticali latini d’età tardoantica,” 149–164, as well as Zetzel, *Critics, Compilers, and Commentators*, 313–314.

¹⁰¹ See, for instance, 36r. It is unclear what *hd* and *hs* stand for. Lowe suggests *h(ic)*

corrector has used a staurogram to alert the reader of this grammar that an insertion is to be made. (Figure 7.25)

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Figure 7.25. Vat. Urb. Lat. 1154, 20v. The staurogram is repeated as well in the bottom margin to indicate that the lower text continues what is above.

The use of the same Latin uncial for the alpha of “ $\alpha\omega$ ” and the text of the correction, as well as the colon in identical dark brown ink underneath the staurogram, make clear that this corrector’s sign belongs with the marginal note, rather than having been added subsequently. The staurogram, in other words, is used here in perhaps its most banal instance surviving from antiquity: to point a reader to a textual variant in a grammatical treatise. I return to this point below.

In the Roman context, christograms (of which the staurogram is one type) were

d(eest) and *h(ic) s(upple)*, but other suggestions have been made. See Lowe, “The Oldest Omission Signs in Latin Manuscripts: Their Origin and Significance.”

associated initially with Constantine's victory at the Milvian Bridge in 312. In the early years of the fourth century, the christogram was a potent symbol of political domination under the aegis of a new god—the Christ to which Constantine had allegedly sworn his allegiance the night before marching on Rome. It was one type of christogram, the category of scribal symbols that overlaps with *nomina sacra*, and which came to symbolize Christ, Christian faith, and eventually, Constantinian dominance. (Figure 7.26)

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Figure 7.26. RIC VII Constantinople 19, depicting Constantine laureate on the obverse and on the reverse a military standard, topped with a christogram, and the legend *SPES PUBLICA* (“the safety of the republic”). This coin was struck in 327 in a variety of denominations, and seems to refer to Constantine's victory over Licinius and assumption of sole rule over the East and the West. Image British Museum 1890,0804.11.

Image removed due to copyright concerns

Figure 7.27. *P. Bodmer 14–15* (TM 61743) at the *Gospel according to Luke 14:27*. A staurogram appears in the word ΣΤΑΥΡΟΝ, with a supralinear stroke indicating the abbreviation.

The staurogram functions as a *nomen sacrum*, and appears supralineate in some of the earliest New Testament manuscripts.¹⁰² (Figure 7.27) It was a potent enough symbol to be a significant part of Constantine’s program of visual propaganda, and it appears on coinage throughout the Theodosian Age to symbolize the orthodox Christianity of the regent.¹⁰³ Consider, for instance, RIC IX Cyzicus 26a, a coin of Valentinian II depicting on its obverse the goddess Victoria, with a trophy in her right hand, dragging a captive in her left and standing next to a staurogram. (Figure 7.28) The image of Victoria signaled Roman might and subduing of foreign peoples since at least the time of the Augustan empire, when a statue of the god was installed in the Senate *curia*.¹⁰⁴ Despite one brief

¹⁰² Though the tau-rho ligature is not attested first in Christian materials. See Hurtado, *The Earliest Christian Artifacts*, 135–146.

¹⁰³ The staurogram appears as an imperial symbol first in Lactantius, *On the Death of the Persecutors* 44. On Constantine’s program of visual propaganda, and the relationship between literary and material sources, see Lenski, *Constantine and the Cities*, 67–83.

¹⁰⁴ On the history of the cult statue and her altar, as well as the latter’s temporary removal in 357, see Glen Thompson, “Constantius II and the First Removal of the Altar of Victory.”

removal,¹⁰⁵ the statue stayed in the Roman senate chambers at least a decade into the reign of Theodosius I, and despite its clear Traditionalist associations, many Orthodox Christians were willing to deploy the image of Victoria devoid of any overt religious meaning.¹⁰⁶ Many regarded the staurogram in a similar way, though the change occurred on a significantly shorter time-scale. By the time of the Theodosian empire, it could be used to signify the Christian deity's protection of the "health of the republic." (See figure 7.27) But it could also be used to indicate the presence of a textual variant in a grammatical treatise.

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Figure 7.28. RIC IX Cyzicus 26a, obverse. The legend reads *SALUS REIPUBLICAE* ("the health of the republic"). Photo Münzkabinett der Universität Göttingen, BA-1216.

¹⁰⁵ In 382, when the statue was removed by Gratian. According to Paulinus of Milan, it was replaced in 392 by Euenius. Paulinus, *The Life of Saint Ambrose* 26.

¹⁰⁶ An oration of Claudian indicates the continued presence of Victoria's cult statue and altar in the senate chambers at least to the year 404. Claudian, *Panegyric on the Sixth Consulship of Honorius Augustus* 597–602.

As I read the evidence, this scribe's use of the staurogram as a corrector's symbol in Vat. Urb. Lat. 1154 need not indicate anything about the faith or political inclinations of the corrector. Instead, what the choice may indicate is that by the later fifth century, the semantic range of the staurogram, once a sign of imperial power most commonly associated with military equipment, apparently had expanded to encompass any number of applications that have neither clear imperial nor theological relevance.

The staurogram was also reused as a multipurpose symbol in the Greek east of the early sixth century. I wrote above about the literary qualities of the so-called *Summaria antiqua* that fills out the margins of Vat. Reg. La. 886 (TM 66206). The scriptorium that produced this manuscript of the *Theodosian Code*, however, repays further attention. Because the binder, whose job it was to keep the original quaternions of this substantial manuscript in order, and to stitch them together after the scribe had finished their work, used a staurogram to indicate the beginning of each gathering. (Figure 7.29)

Images removed due to copyright concerns

Figure 7.29. Staurograms used as binder's marks on Vat. Reg. Lat. 886, 9r, 17r, 25r, 33r.

The strange appearance of the Latin semi-uncial is due to the scribe's use of a stylus cut for Greek, suggesting an eastern provenance for this manuscript, though there is reason to

think that it found its way to the West by the late sixth century.¹⁰⁷

I am not suggesting that any of these examples can be read as an ancient attempt to cast otherwise dry, pre-Christian scholarship within a Christian frame. Rather, I suggest that what we see in these manuscripts is scribes reusing symbols that originated in Christian contexts as ideological blank slates. The fact that a late-fifth century corrector could use a staurogram as a corrector's symbol suggests nothing credible about the faith of the scribe, or that of a reader. But these reuses say a lot about the culture within which these texts were transcribed and read. The signs are not innocuous and irrelevant pious ephemera. The recasting of even such tedium as marginal notes quite literally under the rubric of Christian symbolism speaks to the thoroughgoing extent to which an ideology had been generalized through the remobilization of its operative symbols.¹⁰⁸

Analysis of such clear cases of reuse—a sort of scribal spoliation—may help to clarify the scribal and ideological context in which other, less clear cases are properly understood. Vienna Österreichische Nationalbibliothek Latin 15 (TM 67658), for

¹⁰⁷ On the paleography see Ammirati, *Sul libro latino antico*, 101–102. On the late ancient use of this manuscript in the West see Sirks, *Summaria Antiqua*, ix–xii.

¹⁰⁸ Writing in the seventh century about various forms of critical signs that his readers might find in manuscripts, Isidore of Seville agreed that the christogram had lost all inherent meaning. “Chrisomon: this is placed according to the interest of the individual to mark something out (*Haec sola ex voluntate uniuscuiusque ad aliquid notandum ponitur*).” *Etymologies* 1.21.22. Text Lindsay.

instance, is an early fifth century deluxe codex of Livy's *History of Rome* that uses a supralineate *PR* to stand for various inflected forms of *populus romanus*.¹⁰⁹ This contraction is not known from the epigraphic corpus,¹¹⁰ and the other known copy of this text from the Theodosian Age (Bamberg Staatliche Bibliothek Class. 35a, TM 67175) uses the same abbreviation, but without supralinear strokes.¹¹¹ Even within the same section of text, this scribe indicates the abbreviation sometimes with a supralinear stroke, in the manner of a *nomen sacrum*, and sometimes without. (Figure 7.30)

¹⁰⁹ Dating so Lowe *CLA* 10.1472. See also 147v, with supralineate *PR* for *populi romani* in 45.1, 159r which uses *PR* supralineate for *populo romano* in 45.14, and 162v which uses *PR* supralineate for *populo romano* in 45.18.

¹¹⁰ See Gordon, "Supralineate Abbreviations in Latin Inscriptions," s.v. "P."

¹¹¹ The manuscript uses *PL* for *populus romanus* as well as *TR PL* for *tribunus plebis*. Paleographic analysis in notes in Seider, *Pälographie der lateinischen Papyri*, vol. 2.1 p. 138–142. Further fragments of this manuscript were found reused to mend a medieval biblical manuscript. These fragments were published in 2000 by Matthias Tischler, and the pattern holds. Tischler, "Neue Fragmente der spätantiken Bamberger Livius-Handschrift."

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Figure 7.30. Vienna, Österreichische Nationalbibliothek Latin 15, 162r. (TM 67658)

From Livy, *History of Rome* 45.28. The *PR* abbreviation is used three times in this section, with only one instance supralineate. (On line 9 of the excerpt.)

The scribe copying this manuscript apparently uses the tools of Christian manuscript production to indicate to a reader the presence of an abbreviation. The inconsistent use within this manuscript, as well as the comparison with a contemporary manuscript of the same text that does not utilize supralineate abbreviations, suggests that the scribe in question is not taking over usage from an exemplar, but rather reused tools known from a different scribal domain in their work on this manuscript of Livy. And it is unclear that epigraphy is the domain which this scribe has in mind when employing over

PR supralineate—the abbreviation does not appear anywhere in the epigraphic record with a supralinear stroke. The most proximate context in which to understand this manuscript’s form of abbreviation is a that of a Christian, biblical scriptorium. Another late-fourth or early-fifth century manuscript of North African origin uses the same form—*PR* supralineate—to indicate *presbutero* in a copy of Cyprian’s *Letter 54*.¹¹² (Figure 7.31)

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Figure 7.31. Vat. Lat. 10959, 1v. Incipit of Cyprian *Letter 54* with *PR* supralineate to indicate *presbutero* as well as *ITE* superlineate to indicate *ite(m)*. The supralinear stroke, in other words, is used for different purposes in successive words. The first indicates the contraction, while the second indicates the suppressed *M*, as is common in fourth and fifth century uncial manuscripts (though more common at the end of lines). The same calligraphic supralinear stroke is used in line 12 of the same column to indicate a suppressed *M* and the end of *laetatu(m)*.

¹¹² Vatican Latin 10959 (TM 66155). Dating Lowe *CLA* 1.** (p.18). See also the initial publication by Colin H. Roberts, “A Newly Discovered Leaf of a Fifth-Century Ms of St. Cyprian.”

The scribe of this manuscript write XPΣ supralineate to indicate *Christus* in line 18 of the right column of this leaf, indicating that s/he is familiar with the use of *nomina sacra*, and that the supralineate *PR* in line two of the left column should be understood as a reuse of that scribal tool, even though *presbuteros* is not a traditional *nomen sacrum*. In both manuscripts, in other words, new contractions are indicated with the same tool. And yet scholars are only comfortable calling one a *nomen sacrum*, while the other is simply a scribal oddity. That may be the case. But a responsible historical methodology requires us to consider that these coincidences may not be accidental, and that they say something about the ideological context in which each text was transcribed.

Such correspondences in scribal practice, and in the use of seemingly “Christian” tools in non-theological contexts, are so common in fifth century manuscripts that the trend cannot be reduced to scribal training or local peculiarities. A juristic fragment in Berlin (P. Berlin 6757, TM 62941) dated between the mid-fourth and mid-fifth century¹¹³ uses *PR* supralineate to indicate *praetor*.¹¹⁴ Similarly, Codex Puteanus uses a supralinear

¹¹³ So Lowe *CLA* 8.1033, Seider *Pal. Lat.* 2.2.61–65, Ammirati, “Per una storia del libro antico,” 65.

¹¹⁴ For the text and philological commentary see Krüger, “Die Berliner Fragmente vorjustinianischer Rechtsquellen,” with an updated text and legal analysis in Falchi, “Sui ‘Fragmenta berolinensia’ incerti auctoris ‘*de iudiciis*’.” It is unclear whether this supralineate *PR* is intended as a contracted or an abbreviated form—that is, whether the *PR* stands for *pr(etor)* or *p(reto)r*. If the former, then there is some classical

stroke over *CN* for *Gaius* (22v, Figure 7.32), *COS* for *consul* (22v and very often elsewhere, Figure 7.27), *M* for *Marcus* (29r), *PR* for *praetorum* (31v), *SC* for *senatus consultis* (31v).¹¹⁵ The four different uses of supralineate *PR* mentioned here alone suggest that what we are dealing with is not a standardized set of abbreviations,¹¹⁶ but rather that the supralinear stroke is deployed as a common tool, as an aid to readers who would be used to such indications.

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Figure 7.32. Paris, Bibliothèque Nationale Lat. 5730 (TM 66692), 22v, “Codex Puteanus.” Note the supralinear abbreviations for “Gaius” (line 2) and “consul” (line 3), as well as a supralinear stroke at the end of line 1 noting the suppressed final M of

precedent for such abbreviation. If the latter, then this contraction is more easily placed squarely in a Christian scribal context. The ambiguity itself is telling, and a fourth or fifth century reader of this text might reasonably come to either conclusion.

¹¹⁵ All from book 22 of *History of Rome*.

¹¹⁶ Such as are found in the tenth century *Notae Vaticanae* (Vatican Reg. Lat. 1128), where 8 folia list in alphabetical order the entire corpus of *notas iuris* known in the ninth century. Edited by Mommsen in Keil (ed.), *Grammatici Latini*, 4.288–300.

“idem.” The text is Livy *From the Founding of the City* 22.

Examples could be multiplied almost $\bar{A}I$. Among the closest paleographic parallels to Codex Puteanus is the Lavanttal Ambrose discussed above. Clear links are visible among the two manuscripts in paratextual features (running titles, binder’s marks) and ligatures. (Figures 7.33–36.) Given the overwhelming similarities in script, paratext, and codicology, it is highly likely that both of these manuscripts come from the same period, and perhaps from the same scriptorium.¹¹⁷ Both are dated to the mid-fifth century. And, I argue, we must bring an analogous set of assumptions to understanding the particular scribal features found in both. In both we find the same tools—Christian scribal tools—used throughout.

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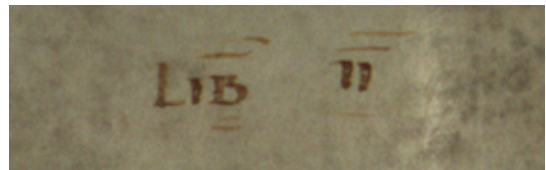


Figure 7.33. Running titles. Paris, Bibliothèque Nationale Lat. 5730, 28r (left).

Stiftsbibliothek Lavanttal 1, 54v (right).

¹¹⁷ Both are quaternions (typical of the fifth century) with a supralineate (and sometimes underlined) Roman numeral on the bottom right corner of the verso of the last sheet in each gathering. The only significant difference is in the page density, with Vatican averaging c. 26 lines per page and Lavanttal c. 21. The lines are slightly longer in the BnF manuscript, too: c. 18 letters per line, vs. c. 15 in the Lavanttal manuscript.

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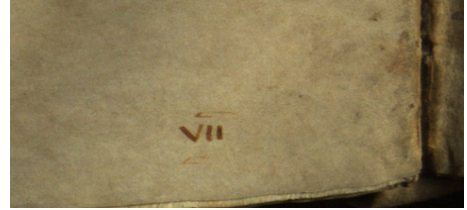


Figure 7.34. Binder's marks. Paris, Bibliothèque Nationale Lat. 5730, 25v (left).

Stiftsbibliothek Lavanttal 1, 54v (right).

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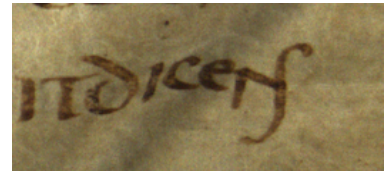


Figure 7.35. NS ligature. Paris, Bibliothèque Nationale Lat. 5730, 2v (left).

Stiftsbibliothek Lavanttal 1, 8v (right).

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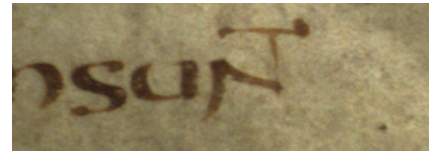


Figure 7.36. NT ligature. Paris, Bibliothèque Nationale Lat. 5730, 9r (left).

Stiftsbibliothek Lavanttal 1, 7r (right).

The phenomenon is not merely literary, either, nor is it solely found in manuscripts. As I mentioned above, supralineate abbreviations arrive remarkably late as a standard tool in the epigraphic record.¹¹⁸ In the classical period, a supralinear stroke was typically

¹¹⁸Nicoletta Giovè Marchioli notes the close connection between the epigraphic and

used only to indicate numbers, and occasionally (though inconsistently) consular dates.¹¹⁹

By the mid-fifth century, however, supralinear strokes were used to identify even the most common contractions in public inscriptions. See, for instance, *CIL* VI 1668, a dedicatory inscription from 468/9 for Flavius Eugenius Asellus.¹²⁰ (Figure 7.37) The short, three line inscription boasts four supralinear strokes indicating *V(ir) c(larissimus)*, *praef(ectus) urb(i)*, and *v(ice) s(acra) i(udicans)*.¹²¹

documentary record among Latin sources. “Fra epigrafi e papiri vi è infatti, per quanto riguarda le abbreviature, una stretta connessione, tanto che molti dei fenomeni attestati nei papiri sono preceduti nell’attestazione da testimonianze epigrafiche.”

Marchioli, *Alle origini delle abbreviature latine*, 15–16.

¹¹⁹ See, for instance, Musei Vaticani 216.0.0, from 221, which abbreviates *consulibus* as *COS* supralineate in line 6, but not in line 16.

¹²⁰ PLRE 2 s.v. *Asellus* 2.

¹²¹ See Noviello, “VII, 10. Un restauro del Prefetto Urbano.”

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Figure 7.37. *CIL* VI 1668 (Terme di Diocleziano VII.10), a dedicatory inscription to Flavius Eugenius Assellus, dated to 469 CE. Photo *Terme di Diocleziano: la collezione epigrafica*, 449.

By the early sixth century, these indications were used even in funerary contexts. For instance see *ILCV* 1469, a funerary inscription from 525 CE for Maxima, “slave attendant of Christ (*ancilla Cristi*),” which uses supralinear strokes in every possible place—eight times in an unimposing inscription of seven lines.¹²² (Figure 7.38) One supralinear stroke, over *IN* on line 7, appears to be completely extraneous.¹²³ Perhaps scribe got carried away with all the abbreviating.

¹²² See Noviello, “IX, 34. Iscrizione di *Maxima*.”

¹²³ That this particular supralinear stroke carries no obvious meaning is suggested moreover by the fact that Ernst Diehl didn’t include it in his edition. *Inscriptiones latinae christianae veteres*, 1.1469.

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Figure 7.38. ILCV 1469, funerary inscription for Maxima dated to June 23, 525. Notice supralinear abbreviations in lines 3 (*ann(os), pl(us) m(inus), d(e)p(osita), kal(endas)*), 4 (*v(iro) c(larissimo), cons(ule)*), 6 (*ann(os), m(enses)*) and 7 (*in* with a supralinear stroke for an unknown purpose, probably a mistake). Squeeze from the Ohio State University Center for Epigraphical and Palaeographical Studies.

This Christian tool found its way from biblical manuscripts to other literary texts, and eventually to dedicatory and even funerary inscriptions. There is a classical precedent for the use of supralinear abbreviations—they occur in the epigraphic record from the period of the early empire, though rarely. The dramatic increase of attestations of this tool, and its use to identify contractions and abbreviations in manuscripts and inscriptions

occurred only after the period of Christian ascendancy. Supralineate contractions and abbreviations are not uniquely Christian, but their thoroughgoing use is. And they came to be used widely only when Christians became politically and scholastically dominant. I argue that this state of affairs is no coincidence.

I want to discuss one more pair of Theodosian manuscripts which appear to have the same provenance, but that are classed differently because of the content of their leaves. The so-called *Vatican Vergil* (Vatican Lat. 3225, TM 65873) is a deluxe manuscript from the late fourth or early fifth century that contains portions of the *Georgics* and *Aeneid*. The 76 surviving leaves of this codex have been the subject of hundreds of paleographic, text critical, and art historical studies.¹²⁴ Though it uses no *nomina sacra* of any sort, nor contains any obvious paratextual features of note, we can be relatively certain that the Theodosian, Italian center responsible for the production of this manuscript produced at least one other manuscript which remains extant: a deluxe Latin bible known as the *Quedlinburg Itala*.¹²⁵

¹²⁴ Of which see Pellegrin, *Les manuscrits classiques latins de la Bibliothèque vaticane*, 2.1.113–117; Seider, “Beiträge zur Geschichte und Paläographie der antiken Vergilhandschriften,” 138–139; Steffens, *Paléographie latine*, pl. 10; de Wit, *Die Miniaturen des Vergilius Vaticanus*; Wright, *The Vatican Vergil*. A comprehensive list is not available, but bibliography for most of the major studies is listed here: <https://digi.vatlib.it/mss/detail/Vat.lat.3225>

¹²⁵ Berlin Staatsbibliothek Ms. Theol. Lat. 485 + Quedlinburg Stiftskirche (unnumbered), TM 67208.

The *Vatican Vergil* is not complete: it would originally have contained the entirety of Vergil's work in around 440 folia (like its cousin the *Roman Vergil*, discussed above), and it is written in "an old type of rustic capital."¹²⁶ The text is of remarkable quality, but is unremarkable otherwise; the single scribe responsible for the entirety of the text was well trained (and perhaps suppressed some forms that s/he knew¹²⁷), but little can be said about the intellectual or ideological environment of the scribe's work from the text alone. More remarkable are the fifty surviving illustrations, which comprise two-thirds of many pages, and in places takes up entire leaves of the codex.¹²⁸ The art has been used most often to situate the work. Commentators have focused on these illustrations to make arguments about the codex's intellectual context, and in turn about the ideology of its owner. Wright's approach is characteristic, and echoes the majority of critical opinions. He claims that in Late Antiquity, "Christians continued to read and admire Vergil, both for the exemplary qualities of the poetry and as the embodiment of a national tradition, but no Christian is likely to have commissioned a fine illustrated edition, especially one

¹²⁶ Lowe *CLA* 1.11.

¹²⁷ Such as an *H* formed with an upward loop on 32r which Wright notes "suggests that our scribe was familiar with this peculiar form, which does occur later in the fifth century, as in the Vatican-Orléans-Berlin fragments of Sallust (Lowe, *CLA* 6.809)." Wright, *The Vatican Vergil*, 76n3.

¹²⁸ Originally there must have been c. 280 illustrations, according to the reconstruction of Wright, *The Vatican Vergil*, 1.

containing many scenes of pagan sacrifice.”¹²⁹ Unsurprisingly, given his dating of this text to “the time around 400, meaning probably within two decades on either side of that date,”¹³⁰ Wright presumes that this text should be understood as arising under the patronage of “an associate of Quintus Aurelius Symmachus,” the renown Roman Traditionalist of the Theodosian Age.¹³¹ Wright proposes that the most reasonable understanding of the context in which this codex was produced was in the flourishing intellectual life at Rome in around 400, and specifically in the absence of significant Christian voices at Rome when compared with the rest of the empire. “The power of the church was growing rapidly,” he writes, “but the most important Christian intellectuals

¹²⁹ *ibid.*, 101–2.

¹³⁰ *ibid.*, 91. The dating is made on the basis of stylistic comparisons primarily with the mosaics of Santa Maria Maggiore and a set of carved ivories from the Theodosian Age, and although the methodology is suspect, the dating comports with the paleographic dating of Lowe, Sieder, and others, and I take c. 400 as about as established of a date as is possible for a manuscript of this type, without evidence from dated colophons.

¹³¹ Wright, *The Vatican Vergil*, 102. One wonders whether there hasn’t been some bit of attraction between the paleographic analysis and the proposed historical association with Symmachus. See also Agati, *The Manuscript Book*, 314. “The Vatican Virgil (Vatican City, BAV, *Vat. lat.* 3225) is datable to around 400 and is very probably a Roman product of the pagan circle of Symmachus, Servius, and Macrobius. The work is of a single scribe, but it was illustrated by three different painters...”

were not in Rome: Ambrose was in Milan, Jerome in Bethlehem, and Augustine in Hippo. The pagans were on the defensive politically, but because of the diffusion of authority, in an important sense Rome was still theirs.”¹³²

Wright’s contention, that text cannot have been commissioned or owned by a Christian, is unconvincing *a priori* because it confuses the stressed and stressful orthodoxy of “the most important Christian intellectuals” like Ambrose, Jerome, and Augustine with the interests of Christians *writ large*. Jerome was at least as hated as he was loved in the late fourth century, and Augustine was almost entirely unknown outside of an extremely circumscribed group of clerics and governmental officers.¹³³ In Wright’s work, as well in studies by other specialists on the topic, the backward gaze of orthodoxy has produced a blurred picture of Theodosian Age Christianity. Ambrose, the only cleric mentioned by Wright who wielded significant political power, regularly peppered his writings with Vergilian quotes and reminiscences, and such a proposal forgets Christians at least as powerful as Ambrose whose confessional commitment comes across hardly at all in their surviving literary work.¹³⁴ One thinks of Macrobius, who was very likely Praetorian Prefect in Rome in 430, or Vegetius, who was a *vir inlustris comes*—both of

¹³² Wright, *The Vatican Vergil*, 101.

¹³³ He had, at best, friends in high places, but his imperial friends were only that he cultivated over the course of his ecclesiastical career, and with particular political ends in mind. See Brent Shaw, “Augustine and Men of Imperial Power.”

¹³⁴ On Vergil in the works of Ambrose, see Mary Dorothea Diederich, *Vergil in the works of St. Ambrose*.

whom have been discussed in this dissertation before.¹³⁵ Vergil was so untainted by paganism for the Theodosian Age Christians of Cuicul (modern day Djemila, Algeria) that they constructed a magnificent baptistry to serve the metropolitan basilica, complete with a quote from *Eclogue* 3. At its center, where initiates would receive the rite of baptism, the baptistry reads: *[GENTES T]EMPUS ERIT OMNES IN FONTE [LAVARI]*—“There will come a time for all people to be washed in the fount.”¹³⁶

There is no credible reason to think that this copy of Vergil could not be owned or commissioned by a Theodosian Age Christian, and there is reason to think that the object itself was produced in the same scriptorium as produced the *Quedlinburg Itala*, the oldest illustrated biblical manuscript extant. This text shares significant stylistic and thematic overlap with both the *Vatican Vergil* as well as with the mosaic cycle found in the nave at Santa Maria Maggiore, dated to the papacy of Sixtus III between 432 and 440.¹³⁷ All

¹³⁵ PLRE 2, s.v. “P. Fl. Vegetius Renatus” (p. 763)

¹³⁶ The line in the *Eclogues* reads ...*tempus erit omnes in fonte lavabo*. Vergil, *Eclogues* 3.97. Text LCL 63. As far as I can tell, this inscription has never been formally published, though Nathan Dennis has a forthcoming article on the inscription called “Baptizing Virgil: The Early Christian Baptistry at Djémila and the Making of a Pagan Saint,” and Matthew D. C. Larsen has a deft discussion of the baptistry in “The Real-and-Imagined Biography of a Gospel Manuscript,” forthcoming in *Early Christianity*.

¹³⁷ On the connection between the manuscripts see Inabelle Levin, *The Quedlinburg Itala*, 67–71, and on the connection between the Vatican Vergil and the mosaic cycle at S.

three of these objects are likely products of the flurry of activity in Rome after the sack of 410, and striking similarities between these three cycles in so many details have suggest the manuscripts were also made in Rome, and that they were all products of the same generation.¹³⁸ Whether the *Vatican Vergil* and the *Quedlinburg Itala* were products of the same scriptorium is impossible to say. What is possible to say confidently is that both arise from the same milieu, and we cannot dismiss the very real possibility that Christians are responsible for all three.

The historical interpretation of this cluster of materials is difficult, but it is not intractable. If the *Quedlinburg Itala* and the *Vatican Vergil* came from the same

Maria Maggiore see Johannes de Wit, *Die Miniaturen des Vergilius Vaticanus*, 155–156. On the date of the mosaic cycle, see Beat Brenk, *Die frühchristlichen Mosaiken in S. Maria Maggiore zu Rom*, 1–2.

¹³⁸ On the *Quedlinburg Itala*, Inabelle Levin argues persuasively for a Theodosian date.

“When all of the evidence is assembled a clearer picture of the date of this codex emerges. Our manuscript was written and illustrated by a Roman workshop no earlier than that first third of the fifth century, and very likely during the 420’s or 430’s. A date earlier than ca. 400 is unacceptable, and the later range of dates seem probably for a number of reasons. This conclusion is based on: the paleography of the gold labels, the presence of crosses on the shields in picture 1, the *tablion* on the courtier’s mantle, the angularity of the figure and drapery style, the shape of the hairdoes, and the illustrations’ close relationship, on so many artistic levels, with the S. Maria Maggiore mosaics.” Levin, *The Quedlinburg Itala*, 70.

scriptorium, they might have been delivered to the same household; or, perhaps not. It is perfectly reasonable to think that the Vergil codex found its first home in on the bookshelf of an elite Roman Christian, but it is just as reasonable to think that the bible came to rest in the *scrinium* of a Roman Traditionalist interested in having a copy of the bible about which so many in her social network spoke. We simply don't know—nor, likely, will we. Clearer is that the distinction between “Pagan” and “Christian” manuscript production does not hold in the Theodosian Age. If the same iconographic language is visible in the mosaics of Santa Maria Maggiore, the *Vatican Vergil*, and the *Quedlinburg Itala*, then the visual language is either meaningless when trying to assign ideological commitments to the producers, or the ideological commitments of the producers have no clear bearing on visual language used. In either case a picture emerges of elite society in which ideology and materiality are separable, if not always separate. The picture that emerges is a society in which the tools of scholastic production are deeply influenced by the ideological context, but in which the tools selected by any particular user cannot be used to identify their theological or ideological commitments. This is a society with thoroughgoing Christian influences, but a society in which one's choice to use “Christian” tools speaks to the context of production rather than to the commitment of the producer.

Conclusion

This chapter investigated the new texts that Theodosian Age writers and scribes produced, against the background of the dominant scholastic epistemic framework. I have tried to explain why books from the Theodosian Age look so dramatically different from

those which preceded them, and why books across genres begin to look so remarkably similar: with shared formats, features, and scribal interventions. Why is it that, for instance, the closest paleographical and codicological parallel for a late fourth century juristic fragment like P. Haun III 45 is not another juristic fragment, but rather one of the earliest known Latin fragments of a Christian text: a liturgical codex fragment in the Rylands collection?¹³⁹ It is because their producers and users were one-and-the-same.¹⁴⁰

The fifth century, from which the vast majority of our relevant manuscripts survive, was a time of extraordinary innovation. Approximately 40% of all Latin literature produced before the 7th century was composed between 400 and 499 CE.¹⁴¹ Literary production flourished, and old tools were reused in new ways in order to accommodate a new structure of knowledge. The penetration of peculiarly Christian tools and symbols into non-theological domains does not speak to the Christianity of writers producing our extant manuscripts as much as it speaks to the dominant ideological framework in which these individuals worked. The weight of the evidence, I suggest, demonstrates that a shift in epistemology caused a shift in material production that is visible in manuscripts and inscriptions from the period under discussion. From an expectation of aggregation came problems of discernment and new strategies for making clear what material is included for edification, and what is included merely for the

¹³⁹ P. Ryl. Gr. 472 (TM 64321).

¹⁴⁰ Ammirati, “Per una storia del libro latino antico,” 72.

¹⁴¹ Data based on wordcounts for dated texts in *Corpus Corporum* (43.6%) and the Brepols Latin databases (38.0%).

epistemic purpose of aggregation. Christian tools like supralineate abbreviations came to be widely used throughout the literary and documentary landscape even as symbols like the Christogram were rendered ideological blank-slates, capable of signifying everything from imperial triumph to textual variation. And professionals trained in Christian scribal practices and iconography took their talents to work on non-theological texts, such that the contemporary scholarly separation of “secular” from “sacred” Theodosian Age material becomes a distinction without a difference.

A book that looks different elicits a different interpretation, and new reading strategies commensurate with the change in form. New bookforms and textual features came to influence the meanings read into and out from Theodosian age books. My final chapter returns to literary evidence, to explore the new meanings that readers found within the pages of these Theodosian Age productions.

Chapter 8—New Readers, New Meanings

The truism bears repeating: reading in the twenty-first century is a multi-layered activity. For instance, the simple presence of hyperlinks in online news stories increases the likelihood that a typical reader will find the story credible,¹ and results in significantly increased recall of story details.² Media bandwidth crescendoed over the past thirty years, as new and social media were added to the traditional outlets; in turn, all media have adapted to the new landscape, or ceased operations. The expansion of outlets has led many to bemoan the downfall of credibility accorded to mainstream news organizations, as has the apparent proliferation of “fake news” from outlets with lower editorial standards than traditional media organizations, but near-equal reach.³ As news consumers, we have adapted: educational institutions teach classes on “media literacy” to young students and even major, multinational corporations are teaming up with governmental agencies to “empower[] young people with the critical thinking skills necessary in today’s digital age.”⁴ Changing technology has created new subjects with

¹ Prisma Borah, “The Hyperlinked World.”

² Wise et. al., “Choosing and Reading Online News: How Available Choice Affects Cognitive Processing.”

³ See Anya Schiffrin et. al., “Bridging the Gap: Rebuilding Citizen Trust in Media,” 1–2.

⁴ Apple Inc., “Apple Teams up with media literacy programs in the US and Europe.”

Apple Press Release, March 19, 2019.

<https://www.apple.com/newsroom/2019/03/apple-teams-with-media-literacy->

novel reading strategies that are calibrated to the exigencies of the media environment. We read differently than we once did, and our interpretive strategies will change again as the social and political landscape continues to shift.

The same can be said of Late Antiquity: we see the effect of social, political, and documentary shifts in novel interpretive strategies that Theodosian Age readers brought to bear on scholastic productions. When Nicene Christians first came to significant political power in the late fourth century, they brought with them a structure of knowledge that gave pride of place to projects of aggregation, distillation, and promulgation. Chapter five detailed the ways in which a Christianized epistemology inflected the production of scholarly literature in the Theodosian Age, while chapters six and seven surveyed how this epistemology influenced the production of manuscripts. My final chapter demonstrates the net effect of the changes described in the previous three: the new reading strategies that Theodosian Age readers implemented in response to new scholastic forms transmitted in novel formats. I am interested in what might generally be called “interpretive strategies,” but which are more precisely modes of “actualization,” to use Michel de Certeau’s term.⁵ At stake for the Theodosian reader is not just

programs-in-the-us-and-europe/ Accessed September 4, 2019.

⁵ Michel de Certeau, *The Practice of Everyday Life* vol. 1, 171. Roger Chartier echoes de Certeau’s language in *The Order of Books*, 3. “To reconstruct this process of the ‘actualization’ of texts in its historical dimensions first requires that we accept the notion that their meanings are dependent upon the forms through which they are received and appropriated by their readers (or hearers). Readers and hearers, in point

understanding what the text in front of her says; she must discern the proper response to those words based on their epistemic status. *Do these words express something true? And if so, what is the value of their truth in relation to other truths and assertions visible on the page?*

The rise of aggregation as a central facet of scholastic work necessitated the development of corresponding strategies of discernment. Chapter seven detailed simple paratextual strategies through which Theodosian readers indicated heretical opinions, disused laws, and the like. Here I explore the intellectual strategies that scholars and readers implemented in order to retrieve truth from works whose format placed truth and falsity, heresy and orthodoxy, good law and supervened law, side by side. I have grouped these phenomena under the heading of “rules for deciding.” Of course, algorithms for determining truth within multi-vocal literary productions of course pre-date the Theodosian Age. Yet the sophistication and widespread implementation of these strategies across so many scholastic genres and linguistic divides mark the creation of these new reading strategies as particularly embedded in their intellectual environment.

of fact, are never confronted with abstract or ideal texts detached from all materiality; they manipulate or perceive objects and forms whose structures and modalities govern their reading (or their hearing), thus the possible comprehension of the text read (or heard). Against a purely semantic definition of the text... one must state that forms produce meaning and that a text, stable in its letter, is invested with a new meaning and status when the mechanisms that make it available to interpretation change.”

I argue that Theodosian Age readers responded to the literary scholastic environment of the late fourth and fifth centuries along two central trends. The first that I discuss, “rules for deciding,” deal with the problems inherent in reading works of aggregative scholarship. The second, which I group under the heading “institutionalized suspicion of documents,” deals with the stresses involved in putting such works together. The extraordinary preeminence of archival sources in Theodosian scholastic work led to new ways of approaching material handed down by tradition, and to an invigorated suspicion of archives and documents. Simply put: if one is to authorize, codify, and promulgate a particular historical opinion, one must be certain that the source for that opinion has not been tampered with. Pressure to create monumental, universalizing works of final authority like the *Theodosian Code* or official ecclesiastical pronouncements like the *acta* of councils required certainty about the wording of archival sources. If conciliar proceedings held no intellectual weight, there would be little reason to certify the contents of conciliar *acta* with anything like the rigor brought to bear on the documents from Ephesus (431) or Chalcedon (451). During the Theodosian Age, however, when conciliar proceedings gained the patina of patristic authority and when the documents themselves were bestowed imperial backing, it *mattered* what they said.⁶ In the period of

⁶ The centrality of documents to conciliar dispute appeared late in the fourth century, and was firmly seated already in 381. See, for instance, Palladius’ exasperated response to Ambrose’s insistent questioning at the Council of Aquileia. “You are judge, [on account of the fact that] your note-takers are here (*Tu iudex es, tui exceptores hic sunt*).” Text Mansi 3.607.

the Theodosian empire conciliar *acta* became theologically dispositive, and in this period we see an institutionalized suspicion of their production, and of the production of documents that underly the final, authorized codex.⁷ So it was in the domain of Theodosian patristic theology, but such concerns echoed across the scholarly landscape.

This chapter thus situates Theodosian Age readers with respect to the Theodosian writers detailed in chapters five and seven. I argued previously that scholars produced aggregative works with an eye toward how they were to be used—there is an internal

⁷ On the lack of early conciliar *acta*, especially stemming from the Council of Nicaea, see Pierre Battiffol, “Les sources de l’histoire du concile de Nicée,” and Alfred Wikenhauser, “Zur Frage nach der Existenz von nizänischen Synodalprotokollen.” Wikenhauser offers evidence that *acta* could have been taken—the technology was available and had been used for Christian theological disputations in the third century—but finds no reason to say that they must have been. Richard Lim argues that the lack of *acta* from Nicaea proves that “predominant goal of the council [was not] to secure a formal refutation of a particular theological position.” Lim, *Public Disputation, Power, and Social order in Late Antiquity*, 184. Lim’s position is unfalsifiable, and therefore not particularly interesting historiographically, but I note that it was apparently not an interesting question in antiquity whether there was a protocol taken during the Council of Nicaea, which one would naturally expect of an imperial gathering of such size. Before the late fourth century, conciliar *acta*, whether they were notionally available or not, apparently weren’t particularly relevant to theological dispute.

logic to the manner and extent of knowledge presentation. I argue now that Theodosian readers used these sources with cognizance, and concern, for how the collections were produced. The resulting dialectic, visible perhaps only from the outside and in retrospect, defines the new order of books in the Theodosian Age that is the central focus of this dissertation. This chapter presents as the last piece of the puzzle, placing textual producers and receivers together into a single frame. The story could not be told in a linear fashion because each Theodosian producer was also a receiver; there is no single way into or out of this labyrinth. But the effect of the analysis should be a sense of coherence visible even among the fragmentary evidence.

Rules for Deciding

The *Theodosian Code* was a universal statement of law, but it was compiled from constitutions that, more often than not, revised earlier legal practice. Supervening laws were placed next to the supervened, and little attention was paid to the state of law that was itself made irrelevant by constitutions promulgated after 312. In consequence, the *Theodosian Code* is not a handbook of law; it would be nearly impossible to learn legal praxis simply by reading thorough the content of the code without the legal framing offered in works of the great classical jurists: Gaius, Ulpian, Papinian, and the like.⁸ There are, however, some constitutions preserved that deal directly with legal

⁸Little is known about the typical course of legal education before the sixth century, when Justinian's *Digest* was completed and became the cornerstone of the Roman legal educational system. Justinian's 533 edict *Omnem* discussed briefly the system of

praxis, and with the selection and weighing of sources by lawyers in the Theodosian legal framework, and I turn to one such example now.

The “mini-code of 426” was promulgated at Ravenna under the authority of Theodosius II and Valentinian III,⁹ and included both reforms to inheritance law and clear statements about the sources of law that could be legitimately cited in court as precedential.¹⁰ The “mini-code” was excerpted into five different constitutions, of which one survives in the *Theodosian Code* (1.4.3) and four survive in the *Justinianic Code* (1.14.2, 1.14.3, 1.19.7, 1.22.5).

The portion of this “mini-code of 426” that survives in the *Theodosian Code* is perhaps the most interesting, as it deals both with the problem of validating sources, and the problem of discernment among competing authorized voices. The constitution is often referred to as the *Law of Citations*, and it is perhaps the purest example of the dangers involved in producing and using scholarship based on aggregation in service of a universalizing regime. In it, we see a clear example of both facets of Theodosian Age textual practice under scrutiny in this chapter: both an “institutionalized suspicion of documents” and “rules for deciding.”

On its face, the *Law of Citations* provides for the authorization of a collection of Severan juristic texts as holding an equal standing as those of earlier Republican and

education in Berytus (Beirut) before his reforms.

⁹Though presumably the constitution is reflective of Galla Placidia’s wishes rather than those of her son Valentinian III, who was 7 years old at the time.

¹⁰On the original form of the “mini-code,” see my discussion in Chapter 2, p. 57n70.

Imperial jurists.

We confirm every writing of Papinian, Paulus, Gaius, Ulpian, and Modestinus, such that the same authority shall attend Gaius as Paulus, Ulpian, and the others. Additionally, passages from the whole body of his work may be offered [as evidence]. We also decree to be valid the learning of those persons whose treatises and opinions all the aforesaid jurists have incorporated in their own works, such as Scaevola, Sabinus, Julianus, and Marcellus, and all others whom they cite, provided that, on account of the uncertainty of antiquity, their books shall be confirmed by a collation of the codices...¹¹

The *Law of Citations* authorized the texts of Papinian *et. al.* for use in Roman courts. Codification of previous authorities, as we see here, was right at home in the courts of Theodosius II and Valentinian III, and recalls any number of parallel scholastic productions of the Theodosian Age detailed above. However, the law provides for more than just the authorization of certain sources. It imposes a condition, as well: juristic opinions are to be authorized only after they are confirmed through a collation of the books—or, roughly, a confirmation of the wording of the text through multiple (ideally

¹¹ *Papiniani, Pauli, Gaii, Ulpiani atque Modestini scripta universa firmamus ita, ut Gaium quae Paulum, Ulpianum et cunctos comitetur auctoritas, lectionesque ex omni eius opere recitentur. eorum quoque scientiam, quorum tractatus atque sententias praedicti omnes suis operibus miscuerunt, ratam esse censemus, ut Scaevolae, Sabini, Iuliani atque Marcelli, omniumque, quos illi celebrarunt, si tamen eorum libri, propter antiquitatis incertum, codicum collatione firmentur... CTh 1.4.3*

independent) witnesses. According to the law, this verification is to take place “on account of the uncertainty of antiquity (*propter antiquitatis incertum*)”—because the authors of these texts were long dead, and their opinions had been transmitted and commented upon repeatedly in the centuries intervening.

In the *Law of Citations* we see a Theodosian attempt to aggregate and authorize the work of a scholastic patrimony, and we find a correlated concern for the purity of the textual tradition. The law states that the purity of the textual tradition must be confirmed because the resource produced will become a codified authority.¹² This is not a generalized concern for textual purity: the drafters of this constitution, working in the court of Galla Placidia, were concerned with scribal or editorial incursions into these sources precisely because the end point of project was legal authorization and promulgation of a certain set of juristic texts.

It is clear that what is being authorized in the *Law of Citations* is not ancient legal opinions themselves, but rather certain *texts* produced by ancient legal thinkers, and specifically the original text of those opinions. The law explicitly states that that the markup/commentary (*notae*) of Paul and Ulpian on the text of Papinian (*in papiniani corpus*) are not to be considered valid, precedent setting opinions. So, while the law

¹² Even in the context of an imperially sanctioned imperative to ‘get the text right,’ as it were, some mistakes slipped through in the *Theodosian Code*. For instance, *CTh* 9.5.1 and *CJ* 9.8.3 transmit fragments of the so-called *Edictum de Accusationibus*. These fragments are attributed to Constantine in both codices, but they were in fact issued by Galerius. See John Noel Dillon, *The Justice of Constantine*, 14.

orders that opinions of Paul are to be certified and authorized, even his authentic comments on the text of Papinian are not. In other words, the concern was to establish Papinian's words *as he wrote them*, without corruption from later commentary or editorial incursions—even when the incursions in question are the product of another authorized jurist like Ulpian.¹³ This law stands within a tradition of the increasing textualization of legal praxis during the Theodosian empire. With the *Law of Citations*, the court of Galla Placidia placed ancient works of scholarship—and specifically an authorized version of the texts—as the final arbiter of legal orthodoxy and orthopraxy. Suspicion of the documents and archives in question is motivated by the fact that these books will become the final word on legal matters; the concern is epistemic, and results from the aim of the project.

There is, then, a sense in which I agree with Oronzo Pecere's suggestion that the act of textual verification and emendation changed in a Christian imperial context.

In a culture that has deconstructed the literary institutions of classical society, replacing the consolidated hierarchies of its *auctores* biblical texts and commentaries, the center of which, as a result, is the belief that every earthly event or human action carries out a divine plan, it is not surprising that the correction of a

¹³“As was formerly decreed, We also order to be invalidated the notes which Paulus and Ulpian made upon the collected writings of Papinian (*Notas etiam Pauli atque Ulpiani in Papiniani corpus factas, sicut dudum statutum est, praecipimus infirmari*).” *CTh* 1.4.3 For further discussion see Letteney, “Authenticity and Authority,” 41–42 and 53n42.

book is not simply a technical-scholarly operation, but is conceived according to a theological perspective: in fact, in it, the tradition of Alexandrian philology merges with that of biblical criticism, which it had refined methods and quality of reading text grappling with complex *Echtheitsfragen*. It is noted, moreover, that writing itself, traditionally considered *opus servile*, for Christians becomes a means of moral and spiritual elevation.¹⁴

Pecere is right to note the phenomenon, that in the Theodosian Age the tradition of textual emendation came to be spiritually significant and significantly concerned with questions of textual and archival veracity (*Echtheitsfragen*), but I hope that this chapter and the last serve to demonstrate that the change, both ideological and material, is not unique to Christian books, as he argues.¹⁵

¹⁴“In una cultura che ha destrutturato le istituzioni letterarie della civiltà classica, sostituendo alle consolidate gerarchie dei suoi *auctores* i testi e i commenti biblici, e al centro della quale, di conseguenza, c’è la convinzione che ogni evento terreno o azione umana realizza un disegno divino, non sorprende che la revisione di un libro non sia soltanto un’operazione tecnico-erudita, ma venga concepita secondo un’ottica teologica: in essa, infatti, la tradizione della filologia alessandrina si fonde con quella della critica biblica, che aveva affinato metodi e qualità della lettura del testo cimentandosi con complesse *Echtheitsfragen*. È noto, del resto, che lo scrivere stesso, considerato tradizionalmente *opus servile*, diventa per i cristiani un mezzo di elevazione morale e spirituale.” Pecere, “La tradizione dei testi latini,” 25.

¹⁵ See *ibid.*, 21–29.

The *Law of Citations* witnesses another significant facet of the Theodosian order of books: problems of discernment, and rules for deciding between authorized voices. The text continues from above:

Moreover, when conflicting opinions are cited, the greater number of the authors shall prevail, or if the numbers should be equal, the authority of that group shall take precedence in which the man of superior genius, Papinian, shall tower above the rest, and as he defeats a single opponent, so he yields to two. ... Furthermore, when their opinions as cited are equally divided and their authority is rated as equal, the regulation of the judge shall choose whose opinion he shall follow.¹⁶

Here the *Law of Citations* formulates a set of rules and an order of operations by which one may decide between conflicting legal opinions—an eventuality necessitated by the confirmation of a discursive commentarial tradition as legally binding. The solution reached is this: should opinions be evenly split, Papinian's opinion prevails over the others. However, when two authorized jurists rule together against the opinion of

¹⁶ *Ubi autem diversae sententiae proferuntur, potior numerus vincat auctorum, vel, si numerus aequalis sit, eius partis praecedat auctoritas, in qua excellentis ingenii vir Papinianus emineat, qui, ut singulos vincit, ita cedit duobus... Ubi autem pares eorum sententiae recitantur, quorum par censetur auctoritas, quod sequi debeat, eligat moderatio iudicantis. CTh 1.4.3.* This constitution revises a rescript of Hadrian that allowed the judge full discretion in cases of disagreement among commentators. See Gaius, *Institutes* 1.7.

Papinian, their collective opinion shall be judged as superior.¹⁷ The decision falls to judicial discretion if and only if opinions are equally split and Papinian has not commented on the matter at hand.

The *Law of Citations* circumscribes a judge's creativity in interpreting juristic opinions. A. H. M. Jones famously called it "the low-water mark of Roman jurisprudence" for precisely this reason: because it apparently reduces the resolution of complex legal questions to the counting of heads.¹⁸ But these rules are a solution to a problem of the *Law of Citations*' own making. The rules were necessary because a contentious and multi-vocal body of scholarship was identified, verified, and authorized. The reiteration of these rules just three years later in the *Theodosian Code*, the great high-water mark of post-classical legal reform, suggests either that the depth of the water has been overstated, or that the tides of juristic excellence turn on a remarkably short period.

The *Law of Citations* was promulgated three years before the first constitution

¹⁷ Though, as was mentioned above, the commentaries of Paul and Ulpian upon the text of Papinian itself is explicitly *not* authorized by the *Law of Citations*, meaning (one supposes) that a contradictory opinion must be in the continuous text of Paul or Ulpian itself, and not part of their *notae*.

¹⁸ "This rule has justly been regarded as the low-water mark of Roman jurisprudence, but it did at least allow a diligent barrister to tell his client what the law was—unless a more ingenious opponent could produce an imperial constitution which affected the issue." A. H. M. Jones, *The Later Roman Empire*, 1.471. See also Alan Watson, *The Law of the Ancient Romans*, 91.

calling for the creation of the *Theodosian Code*, and stood as binding juristic praxis. In the context of book one of the *Theodosian Code*, however, the *Law of Citations* takes on an even more comprehensive meaning. Because of its inclusion, the binding nature of the collected juristic opinions could only be abrogated through a *novella*. The *Law of Citations* was no longer read simply in the context of the “mini-code of 426,” but as a programmatic statement for the entire body of law.

The inclusion of the *Law of Citations* in the *Theodosian Code* reiterates the validity of the concerns and the solution reached. But the same problems that attended the “mini-code of 426”—the possibility of forged archival sources, and problems of discernment between competing voices—attended the *Theodosian Code*. Unsurprisingly, the Roman senate instituted similar solutions to these problems.

The *Minutes of the Roman Senate Concerning the Theodosian Promulgation* (*Gesta senatus romani de theodosiano publicando*) is a dossier. It comprises minutes from the Roman senate in 438 detailing the reception of the *Theodosian Code* in the West, along with the text of a rescript given by Valentinian III in 443.¹⁹ The rescript is referred to as

¹⁹ The single extant manuscript of this text was copied in the late twelfth century and published initially by Walther Friedrich Colossius in 1824. Colossius, *Theodosiani codicis genuini fragmenta ex membranis Bibliothecae Ambrosianae Mediolanensis*. The most recent systematic study of this text, and the publication of the *Theodosian Code* in the West, is Lorena Atzeri, *Gesta senatus Romani de Theodosiano publicando: il Codice Teodosiano e la sua diffusione ufficiale in Occidente*. For a deft summation of the evidence and debate surrounding this text, see Benet Salway, “The

the *Constitution concerning constitutionaries* (*Constitutio de constitutionariis*), and it legislates duties of the prefect of Rome regarding the publication of the *Theodosian Code*. Here, as part of the proceedings of the Roman senate, we see that the emperor had concerns similar to those visible in the *Law of Citations*; he was worried that the text of the law would be liable to falsification unless its publication and circulation was tightly controlled.

Therefore, the illustrious prefect of the city (our kinsman and friend, whose duty it is to enforce quite diligently what the Senate has decided for the security of all), shall know that the license to publish copies has been assigned to you; that the production, also, of copies of the aforesaid body of law [the *Theodosian Code*] shall be provided for at the risk of you alone; that those persons may have no traffic in either the publication or production of copies, since it is certain that the hazard of falsification falls upon you.²⁰

At issue here is not only the initial editorial work process of producing the *Theodosian*

Publication and Application of the Theodosian Code.”

²⁰ *Praefectus urbi, parens amicusque noster, ad cuius diligentiam pertinet observare diligentius, quod pro omnium cautela decrevit senatus, sciet vobis licentiam in edendis exemplaribus contributam, confectionem quoque memorati corporis vestro tantum periculo procurandam, nec habeant vel de editione vel de confectione commercium, cum ad vos certum sit redundare de falsitate discrimen. Acts of the Senate of Rome* 7. For information on the *constitutionarii* entrusted with purity of the *Code*’s transmission in the West, see *PLRE II* Anastasius 14 and Hilarius Martinus 5.

Code, but also control over reproduction and distribution networks which are particularly vulnerable to obtrusion. If the rescript of Valentinian III appears pessimistic about the conduct of scribes and tradents in legal material, his concern merely reflects what is found in the the *Law of Citations* and reauthorized in the *Theodosian Code* itself. The *Minutes of the Senate of Rome*, in turn, reiterates the concern for editorial intrusion again, as the collected senators cry out acclamations aimed at preventing falsification of the authorized codex.

“Let many copies of the Code be made to be kept in the governmental offices!”

Repeated 10 times. “Let them be kept under seal (*sub signaculis*) in the public

bureaus!” Repeated 20 times. “In order that the established laws may not be

falsified, let many copies be made!” Repeated 25 times. “In order that the

established laws may not be falsified, let all copies be written out in letters

(*litteris*)!” Repeated 18 times. “Let no annotations upon the law (*notae iuris*)²¹ be

²¹ The manuscript reading (*notae iuris non adscribantur*) suggests that *notae iuris* should be understood as scholia on the text of the law, for which we have ample ancient evidence both in the *notae* of Paul and Ulpian on Papinian’s corpus which were rejected in the *Law of Citations* (see above). The manuscript reading suggests notes similar to the *Summaria antiqua codicis Theodosiani* discussed in chapter 7, a corpus of Theodosian Age scholia and juristic notes found in the margins of a deluxe edition of the *Theodosian Code*, Vatican Latin 886. Mommsen preferred to emend conjecturally *adscribantur* to *adhibeantur*, as the latter would more clearly refer to *notae iuris* similar to those found in *P. Haun* III.45 (discussed in chapter 7), and those

added to this copy which will be made by the constitutionaries!” Repeated 12 times. “We request that copies to be kept in the imperial bureaus shall be made at public expense!” Repeated 16 times.²²

These parallel concerns—suspicion of documents and rules for deciding between authorized voices—reverberate through Theodosian scholarship because they proceed logically from a structure of knowledge in which collections of traditional material are authorized and promulgated in view of universal assent. The fact that Theodosian writers

catalogued by medieval legal scholars. See, for instance, Vat. Reg. Lat. 1128 203r–206v. On the dual meaning of *notae iuris* already in antiquity, and the interpretation of this acclamation, see Fara Nasti, “Teodosio II, Giustiniano, Isidoro e il divieto di adoperare siglae,” 604–609. To this, one might add that the immediately preceding acclamation that all copies are to be written out “in letters” more clearly refers to *notae iuris* in the traditional sense—juristic abbreviations. It is not impossible that the senators here proclaim the same thing twice with different words, but that is not the most obvious interpretation of the text either.

²² *Plures codices fiant habendi officiis! Dictum X. In scriniis publicis sub signaculis habeantur! Dictum XX. Ne interpolentur constituta, plures codices fiant! Dictum XXV. Ne constituta interpolentur, omnes codices litteris conscribantur! Dictum XVIII. Huic codici, qui faciendus a constitutionariis, notae iuris non adscribantur! Dictum XII. Codices in scriniis habendi sumptu publico fiant, rogamus! Dictum XVI. Acts of the Roman Senate 5, 3. Text Mommsen and Meyer, *Theodosiani libri XVI cum constitutionibus Sirmondianis pars 2*, 3.8–12.*

and readers dealt with the same problems in different domains stems from the coherent set of aims and expectations from which each proceeds: universality by way of aggregation, distillation, and promulgation. Different readers and writers dealt with the exigencies of aggregation, distillation, and promulgation in different ways, just as the scribes we encountered in chapter seven dealt with the peculiarities of aggregative scholarship in a variety of manners. The range of answers that we encounter, however, are all predicated on roughly the same question: ‘If a multi-vocal tradition is to be transformed into an authorized, aggregative product, how do we know what texts to authorize, and how do we know which voice to follow when they disagree?’ The multiplicity of solutions speaks to the coherence of the problems introduced by a Christianized epistemology as transferred into non-Theological domains in the Theodosian Age. I turn to the multiplicity of those solutions below.

Institutionalized Suspicion of Documents and Archives

By the time he began writing commentaries on the Christian scriptures, Jerome had reached an impasse. He wanted to hold to an ideal: *hebraica veritas* (“the Hebrew is the truth”). In Jerome’s estimation, the final authoritative version of scripture *should* be a faithful rendering of the Hebrew bible into the vernacular. But he had a problem: Jesus in the gospels, as well as Paul in his letters, quote verses and stories from the “Old Testament” that do not exist in the Hebrew, and sometimes they build theological scaffolds around Greek translations that are not faithful to the original.²³ Jerome could

²³ “But the evangelists, and even our Lord and Saviour, and the Apostle Paul, also, bring

either censure Jesus or he could dispense with the ideal of the primacy of the Hebrew scriptures. In the end he did neither. Rather, he used the tools of aggregation and suspicion of documents to justify that the “New Testament” was true even when it expanded falsely on the “Old.”

Jerome’s solution is visible throughout his body of work, but it is stated perhaps most succinctly in the preface to his *Book of Hebrew Questions on Genesis*.²⁴ He composed this text in the early 390s, intending “...to refute the mistakes of those who suspect some fault in the Hebrew scriptures, and to correct the faults which appear to abound in the Greek and Latin codices by reference to the [Hebrew] authority.”²⁵ Jerome

forward many citations coming from the Old Testament which are not contained in our manuscripts...but it is clear from this fact that those are the best copies which agree with the authority of the New Testament (*Sed et Evangelistae, et Dominus quoque noster atque Salvator, necnon et Paulus Apostolus, multa quasi de Veteri Testamento proferunt, quae in nostris codicibus non habentur...Ex que perspicuum est, illa magis vera esse exemplaria, quae cum Novi Testamenti auctoritate concordant*).” Jerome, *Book of Hebrew Questions on Genesis*. PL 23.985A–B

²⁴ *Liber hebraicarum quaestionum in Genesim*. Text PL 23.983–1062. Translations made with reference to C. T. R. Hayward, *Saint Jerome’s Questions on Genesis*, and Stefan Rebenich, *Jerome*, 94–96.

²⁵ *Studii ergo nostri erit, vel eorum, qui de libris Hebraicis varia suspicantur, errores refellere: vel ea quae in Latinis et Graecis codicibus scatere videntur, auctoriati suae reddere*. PL 23.984B. Jerome intended to write “books of Hebrew questions on all the

attests both suspicion of the biblical text in the minds and work of others (“those who suspect some fault in the Hebrew scriptures”), and is skeptical of the veracity, and thereby authority, of the Greek and Latin translations available on the late fourth century book market.²⁶ In cases of faulty transmission or translation of scriptural texts—that is, in the case of competing codes—Jerome’s answer was not further archival work; it was linguistic work.

In chapter seven I showed in detail that Jerome was not in the business of offering a single, final, authoritative version of the scriptural truth. For Jerome, as for adherents of the late fourth century version of Nicene orthodoxy, scripture and tradition dually undergird the final statement of truth found in the Nicene Creed even when they are faulty. Therefore, Jerome was unwilling to offer anything more than a better translation of the Hebrew, along with a more accurate commentary, and to place his work beside the deficient efforts of lesser scholars. He offers an aggregative compendium in codex form.

To enable the student more easily to take note of an emendation, I propose, in the first place, to set out the witnesses as they exist among us, and then, by bringing

sacred books (...*libris Hebraicarum Quaestionum, quos in omnem scripturam sanctam disposui scribere... PL 23.984A*),” but did not finish the project. He appears to have continued in this intention at least as late as his commentary on Isaiah, c. 410 CE. Hayward, *Saint Jerome’s Questions on Genesis*, 92.

²⁶In this preface Jerome explicitly states that the translations under scrutiny are: the Old Latin (*Vetus Latina*), Septuagint, Josephus, Theodotion, Aquilia, Symmachus, and Origen’s (who he calls “Adamantius”).

the late readings into comparison with it, to indicate what had been omitted or added or altered. It is not my purpose, as jealous people pretend, to convict the seventy translators of error, nor do I look upon my own labor as a censure of theirs...²⁷

Unlike other attempts to purify the original text of scripture from later incursions, Jerome's own approach, partially adopted from Origen and partially created in response to his own epistemic environment, was to lay bare for his reader the fact of the variation, and to encourage his reader to remain skeptical of the ability of translators and the trustworthiness of scribes. Nevertheless, he was committed to letting the sum total of the scholarly tradition stand together.²⁸ In his *Prologue to Job*, Jerome explicitly claims that scriptural texts—and especially those with fraught transmission histories—should be transmitted with *asteriski* and *obeli* intact.²⁹ Even the text of scripture is liable to censure.

²⁷ *Et quo facilius emendatio cognoscatur, ipsa primum, ut apud nos sunt, testimonia proponemus, et ex collatione eorum quae sequuntur, quod in illis, aut minus, aut plus, aut aliter sit, indicabimus. Neque vero Septuaginta Interpretum, ut invidi latrant, errores arguimus: nec nostrum laborem, illorum reprehensionem putamus...* Jerome, *Book of Hebrew Questions on Genesis* preface. PL 23.936B–937A.

²⁸ Thus, Jerome does not “apparently contradict himself” in his preface to the *Book of Hebrew Questions on Genesis*, as argued by Hayward, *Saint Jerome's Questions on Genesis*, 94.

²⁹ Text PL 28.1079A–1084A. See especially 1080A. Jerome's *Preface to Ezekiel* goes so far as to prescribe scribal practice for copies of his translation: the text is to be written

Yet, Jerome will not say that even “faulty” texts lack some sort of authority.³⁰

Jerome may be best equipped to discuss the relationship of Theodosian era scholars to older scholarship because he dealt with a long tradition of translation, and with at least five competing versions of the same text, to which he was asked, again and again, to return and translate anew. At the behest of dozens of different patrons, he thought constantly about the relationship between his own scholarly output and that of previous scholars. Though they were written over the course of many years in a number of different locations and institutional contexts, Jerome’s prologues all speak to a singular

with spaces between words, so as to avoid confusion and interpretive failures.

Jerome’s *Preface to the Gospels* takes a somewhat different tack: he claims that he has attempted to change as little from the currently-known Latin translations unless the translations reflected either a corruption in the underlying Greek, or in places where the Latin fail to render its sense. He does this, apparently, because the gospel texts were translated directly from the Greek, and not from Hebrew to Greek and then to Latin (on which see the wine metaphor at the end of his *Prologue to the Books of Solomon*). Jerome admit in his *Preface to the Gospels* that Matthew was written in Hebrew, but he appears to have no knowledge of any manuscripts of it.

³⁰ Throughout his *Book of Hebrew Questions on Genesis*, Jerome repeatedly offers two versions of the same text and does not offer an opinion on which is correct. See for instance 49:27, where he says “...Although this is a most clear prophecy of Paul the Apostle...nonetheless in the Hebrew it is read as follows (*Quam de Paulo apostolo manifestissima prophetia sit...tamen in Hebraeo sic legitur*)...” PL 23.1060B–C.

ideology of scholarship. His commitment to a suspicion of documents was thoroughgoing, and ongoing. In this case the archives are scriptures which are both true, and incontrovertibly faulty.

The Acts of the Council of Chalcedon

The *Acts (acta) of the Council of Chalcedon* are not user friendly documents. All told, they comprise nearly 1,000 pages, preserved mostly in Greek, with lacunae filled by reference to the ancient Latin translation. They are not verbatim transcripts of the proceedings of the council of 451, but rather a collection of notes (ὑπομνήματα/*commentarii*), petitions, *libelli*, and letters that were edited together with an eye toward validating the case of the prevailing (by definition, "Orthodox") side of the dispute at hand.³¹ However, the *acta* as a composite were imperial documents, unquestionably produced in the court of the Eastern emperor in the immediate aftermath of the council, and circulated along with supporting documents by early 455.³²

³¹ I have written about the process of collecting and editing the *acta* in Letteney,

“Authenticity and Authority,” 34–43, upon which this section is heavily dependent.

See also Thomas Graumann, “‘Reading’ the First Council of Ephesus (431),” Richard

Price, “Truth, Omission, and Fiction in the Acts of Chalcedon,” and Graumann,

“Documents, Acts and Archival Habits in Early Christian Church Councils: A Case Study.”

³² “Confecta igitur est appendix eodem tempore quo altera pars Collectionis B [14–20],

cuius ultima epistula data est d. 4. m. Sept. a. 454, atque Epistularum collectionis M

The peculiar nature of the *Acts*' structure allow insight into not only the documents brought before the council, but also into the interpretation of these documents in the Theodosian Age. Each council read out and copied down into its records the proceedings of the first session of the previous meeting. At the first session of Chalcedon (451), for instance, the conciliar *acta* from the previous council (Ephesus II, 449) were read out before the assembly and entered into the official record. In turn, bishops in Ephesus read out the *acta* of the Home Synod of Constantinople (448) and entered those into the conciliar record. Because of this process, multiple, successive layers were embedded within a single document. We are left with a textual nesting doll, where the oldest documents in the *Acts of the Chalcedon*, held in 451, stem from the first council of Ephesus, held 20 years earlier. The *Acts of Chalcedon* thus contain copious information about the proceedings of previous councils, and about the way that these documents were read and interpreted during the Theodosian Age. Within the *acta* we see clerics reading records from previous councils, but we also see bishops resisting the authority of these documents, denying their veracity, and questioning their validity as records of the past. The *Acts of Chalcedon* are valuable because they allow historians to look over the shoulder of bishops as they interpreted imperially authorized documents, and to make

forma primaria, quae inter Pulcheriae obitum mense Iulio 453 et necem Valentiniani d. 16. m. Mart. a. 455 composita est... Neque dubitare licet quin appendix eidem Marciania uoluntati debeatur atque illae epistularum collectiones...Gesta concilii Chalcedonensis qualia in codicibus Graecus uersionibusque Latinis tradita sunt, certo quodam consilio in publicum edita esse..." Eduard Schwartz, *ACO* 2.1.3 (p. xxi–xxii)

inferences regarding the guiding principles of their interpretive gaze.

In the *acta* of Chalcedon we see a fully crystallized suspicion of documents and archives, one that has become part of the institutional framework of interpretation. A few examples will suffice to bear this out. Consider a statement of Basil, bishop of Seleucia, that is preserved within the *acta* from Ephesus II.

“This statement that they say I made I did not make in these words. I am not aware of having said this...”

Juvenal bishop of Jerusalem said:³³ “So, was your statement altered?”

Basil bishop of Seleucia said: “I have neither memory nor knowledge of having made it.”³⁴

³³ Late ancient court proceedings are very commonly bilingual and very often include the full name and title of each party before their statement, each and every time. See for instance P. Oxy. 63 4381 (*ChLA* 47.1431), the second phase of an official *libellus* proceeding held on August 3, 375 CE. Lines 3 and 11 both record the same title for one of the parties, as we see repeatedly in *ACO: Fl(auius) Mauricius, u(ir) c(larissimus) com(es) ord(inis) prim(I) et dux, d(ixit)*. For an example of the first part of a *libellus* proceeding, see P. Oxy. 16 1876.

³⁴ “Ταύτην ἣν λέγουσίν με εἰρηκέναι φωνὴν ἐγὼ οὐκ εἶπον αὐταῖς λέξεσιν. οὐκ οἶδα ταῦτα εἰρηκώς...” Ἰουβενάλιος ἐπίσκοπος Ἱεροσολύμων εἶπεν: “Αὕτη οὖν ἡ φωνὴ παραπεποίηται;” Βασίλειος ἐπίσκοπος Ἰσαυρίας εἶπεν: “Οὐ μέμνημαι οὐδὲ οἶδα

Here, Basil of Seleucia defends himself against *acta* from a council that was held just a year before, at Constantinople in 448. The reader may reasonably infer (and perhaps is supposed to infer) that many people in the room also attended last year's council, and that many attendees remember what Basil said. Nevertheless, as we saw above in the *Law of Citations*, it was the *text* of the council that was authorized. The source of authority to which the collected witnesses must answer is not other living witnesses, but rather the imperially sanctioned, authorized statement of the proceedings and decisions of the council, arriving with an imperial legate in codex form.

Similarly, consider a charge of editorial forgery in the statement of Theodore of Cliodopolis at Chalcedon, made while discussing the Synod of Ephesus II in 449 CE.

“Let him bring in his notaries, for he expelled everyone else's notaries and got his own to do the writing. Let the notaries come and say if this was written or read in our presence, and if anyone acknowledged and signed it.”

The most glorious officials and the extraordinary assembly said: “In whose hand are the notes written?”³⁵

εἰρηκώς.” *ACO* 2.1.1.546-548 (p. 144–145) There are a number of striking parallels in the Rabbinic corpus, for instance at *y. Shab.* 3.1 5d, “R. Ami said ‘Many times have I sat before R. Hoshaya and I did not hear this statement from him.’”

אמר ר' אמי זימנין סגין יתיבית קומי ר' הושעיה ולא שמעית מיניה הדא מילתא

³⁵ “Ἀγάγηι τοὺς νοταρίους αὐτοῦ. ἐκβαλὼν γὰρ τοὺς πάντων νοταρίους τοὺς ἑαυτοῦ ἐποίησεν γράφειν. ἔλθωσιν οἱ νοτάριοι καὶ εἴπωσιν εἰ ἐγράφη ταῦτα ἢ εἰ παρόντων

We see here again that the *Acts* themselves serve as the authorized account; accusations of malfeasance must be made on the basis of that codified document itself, rather than against other people who were present at the document's creation.

The *Acts of Chalcedon* are shot through with a concern, from parties on all sides of the dispute, that official documents have been the victim of forgery and editorial malfeasance. As we have seen, they echo rhetoric we see throughout the Theodosian era. The rhetoric and concerns are shared across corpora, but the solutions sometimes diverge even within a scholastic tradition.

For instance, the legal proceeding of Catholics against “Donatists” held at Carthage in 411 show a similar centrality of import given to documents, but in this corpus, conference attendees built mechanisms of verification directly into the production of

ἡμῶν ἀνεγνώσθη ἢ τις ἐπέγνω καὶ ὑπέγραψεν.” Οἱ ἐνδοξότατοι ἄρχοντες καὶ ἡ ὑπερφυῆς σύγκλητος εἶπον: “Τὰ ὑπομνήματα τίνος χειρὶ γέγραπται;” *ACO* 2.1.1.122-123 (p. 87). The statement of “the most glorious officials and the extraordinary assembly (Οἱ ἐνδοξότατοι ἄρχοντες καὶ ἡ ὑπερφυῆς σύγκλητος)” is given on behalf of the chorus. See *ACO* 2.1.1.767 (p. 170–171) for a discussion of the creation of a chorus within the *acta* of Chalcedon, and the admission of Aetius, the functionary tasked with oversight of the documentary process, that statements of the chorus in particular are often altered to reflect the feel of the meeting and not its verbatim procedure. On the chorus at Chalcedon see Letteney, “Authenticity and Authority,” 37–40.

acta.³⁶ In fact, production and verification of documents was so important in 411 that the first session began with a detailed discussion of the method of transcription and identification of the functionaries called on to perform the task.

The solution agreed was as follows. Six functionaries were tasked with recording the proceedings: one scribe (*scriba*) from the legislature's office, one scribe from the curator of Carthage, two clerks (*exceptores*) from the office of the proconsul, one clerk from the office of the *vicarius*, and one clerk of the legate. These bureaucrats were assisted by dueling secretaries (*notarii*)—two each from the Catholic and Donatist factions—intended to take down each statement in duplicate.³⁷ At the conclusion of every statement, the speaker proceeded to the workspace of a notary for each side and signed the statement in his own hand, writing *recognovi* (“I have inspected”) or *subscripsi* (“I

³⁶ Three Catholic functionaries (Severianus, Julianus, and Marcellus) edited and compiled the *Proceedings* as we have them, and as such some bit of interpretive skepticism is warranted. (PL 11.1231) The varying quality of the Latin and regular recourse to verbal shortcuts and repetitive phrases suggests strongly that a significant amount of the oral character of the proceedings remain embedded in the transcript, and that the touch of the editor was altogether light. See Serge Lancel, *Actes de la Conférence de Carthage en 411*, 1.309–316. On the editorial work of Marcellus (*tribunus et notarius*), before whom the proceedings were held, see *ibid.*, 1.357–363.

³⁷ ...*excipientibus quoque Ianuario et Vitale notariis ecclesiae catholicae, Victore et Cresconio notariis ecclesiae donatistartum...* 1.1.18–20. Text SC 195.

have undersigned”), often with his full title included.³⁸ As much as the *Acts of the Council of Chalcedon* admit continually to their own faulty transmission, the *Acts of the Council of Carthage in 411* insist upon their own verbatim account, and derive their authority therefrom. As Brent Shaw put it with characteristic verve, the *Proceedings* are “a real gem of hard reportage.”³⁹

Perhaps most interesting is that scribes transmitting copies of the *Acts* show extreme sensitivity to the materiality of the methods of verification instituted at the council. In copies of this text, each statement is not merely followed by the statement “recognovi,” or “subscripsi” as autograph of the proceedings would originally have read. The *Acts of the Council of Carthage In 411* are perhaps the most self-consciously authoritative texts surviving from antiquity. The import of documents proceeding from the council is confirmed from the first page, and quite literally re-inscribed on each subsequent sheet.

Manuscripts of this text attest to their own status as secondary copies by preceding

³⁸ The procedure of *subscriptio* in Roman legal documents involved often the addition of an entire sentence rather than just a name. The length of the subscriptions here appear to follow a similar, though simplified, procedure. See Elizabeth A. Meyer, *Legitimacy and Law*, 207–8. On the ideology and materiality of subscriptions of this type in works of Christian doctrinal scholarship and dispute, see Pecere, “La tradizione dei testi latini,” 24–9.

³⁹ Shaw, “African Christianity: Disputes, Definitions, and ‘Donatists,’” 17.

each mark of verification with the words *et alia manu* (“And, in another hand”).⁴⁰

Subsequent copies of these documents, in other words, attest to their own position as copies by indicating that the original edition was composed by multiple different hands, but that the scribal multivocality that was intended as a mark of authenticity has been lost in transmission.⁴¹

Of course, scholars in the Theodosian Age were not the first to show concern for the purity of textual transmission: neither in the domain of Christian theological dispute, nor anywhere else. I am not arguing that suspicion of documents is a Theodosian or a Christian innovation. It is not. Rather, the case that I present here regards the relationship between the institutionalization of suspicion of documents and the prevailing scholastic epistemology in the Theodosian age. People have been skeptical of documents as long as there have been people and documents. The change that I document here is this: the *centrality* of traditional documents for the creation of reliable knowledge led to the *necessity* of scrutiny. The prevalence of this trope across the Theodosian scholastic

⁴⁰ Unfortunately the earliest manuscript of the *Acts of the Conference of Carthage in 411* was copied at Lorsch in the middle of the ninth century (Paris, Bibliothèque nationale de France Latin 1546). Needless to say, in all surviving manuscripts, both “In another hand” and “I have inspected” are, in fact, written in the same hand.

⁴¹ Already in the second century, Galen lamented that crucial details in autograph copies are lost through subsequent transmission. Galen, *In Hipp. Epid. I comment.* I 36, V 10.1, 43.23-29 Wenkebach. Quoted in Anne E. Hanson, “Galen: Author and Critic,” 25.

landscape results from the epistemic shifts of the late fourth and early fifth century. There are limitless reasons to be skeptical of documents and archives. I argue that historians can, and should, note where *precedented* actions are undertaken for *unprecedented* reasons. Theodosian readers and writers, by and large, were skeptical of documents because their scholastic projects were built on archival sources. Mine is not a whig history of epistemology, in which all of the features of the Theodosian Age order of books necessarily flow from a single, motivating shift. Nevertheless, there are certain epistemic positions that heavily imply others. A structure of knowledge in which archival documents are central to the production of truth invites, or perhaps demands, scrutiny of those sources.⁴²

Some scholars during the Theodosian Age adjudicated disputes between opposing authorities on a case-by-case basis. Some scholars, like those involved in the production and dispute over the documents before the Council of Chalcedon in 451, engaged in intensive archival work and interpersonal dispute to adjudicate problems of transmission of documents that were produced by an imperial chancery, sometimes as little as 12 months prior. Scholars at the Conference of Carthage in 411 knew that the *Acts* of the

⁴² See Yehudah Brandes's similar contention regarding the rabbinic corpus and what I have called "rules for deciding." "At the same time, the recognition of the legitimacy of multiple opinions and disputes did not do away with the need to reach one halakhic decision, which then would be binding on all of the Jewish people. There was, therefore, a need to form new ways for halakhic decision making." Brandes, "The Beginnings of the Rules of Halachic Adjudication," vi–vii.

council would become part of a tradition obsessed with archives, so they implemented unprecedented mechanisms of verification from the first moment of the document's production. In all of these examples we see scribes and writers self-consciously paying attention to the problems caused by work predicated on archival sources with unclear transmission histories.

As I showed above, Jerome was unwilling to make a final, one size fits all rule about which version of the scriptures was true and therefore authoritative. It would be hard for Jerome to stick both to his ideal of *hebraica veritas*, as well as to accede to the authority of the words of Jesus and the Apostles, by saying that anything that is not found in the Hebrew is false. He would either end up censuring the Hebrew bible or censuring Jesus; neither is a good look. Some scholars, however, had no such compunction about strict rules for deciding between opposing authorities. We saw one example of such an algorithm in the *Law of Citations* above. I turn now to others.

The Theodosian Talmud

The rabbis of Late Antiquity were scholars, and they worked and lived within a self-aware system of scholastic disputation conceived as such in antiquity. This is, perhaps, the extent of clear similarities between rabbis and the other scholars engaged in this dissertation. Among the greatest difficulties in studying rabbinic literature is that basic questions remain unanswered by the tradition. As Yitz Landes notes,

Of the various difficulties facing the student of classical rabbinic literature one immediate one, that is for the most part unsolved by the evidence provided in the corpus itself, is what this corpus even is and how it came into existence...No

classical rabbinic text ever discusses its origins. At best, the Talmuds offer sporadic statements concerning the authorship of the Mishnah, Tosefta, and tannaitic midrashim, but without offering any explanation as to why they were compiled.⁴³

It was not until the Geonic age, around the turn of the millennium, that Rabbis began to engage in sustained historical theorization as to the ‘when and the why’ of the rabbinic corpus. The tradition was completely devoid of the sort of programmatic statements that this dissertation has engaged thus far—texts like the constitutions calling for the creation of the *Theodosian Code*, or the explicit theorization as to the ‘how’ and the ‘why’ of theological disputation penned by Athanasius, Ambrose, and Jerome. The Rabbinic corpus offers no leg-up to understand the intellectual project, and at times seems to be purposefully obtuse.⁴⁴ Any contextualization of rabbinic materials will be necessarily

⁴³ Yitz Landes, “On the Beginnings of the History of the Beginnings of Rabbinic Literature,” 1–4.

⁴⁴ As it is traditionally transmitted with *Berakhot* first, the Mishnah’s beginning with “At what time...” may indeed be subtly meta-poetic, as has been argued repeatedly. But the subtlety was apparently so thick as to evade all but the keen eye of modern critical commentators. Additionally, *Berakhot* was not originally at the beginning of the corpus; *Terumot*, the longest tractate, was. For his part, Rabbi Sherira Gaon does not go to *Mishnah Berakhot* to answer questions related to the provenance and impetus for the rabbinic tradition in his own *Epistle* on the subject. See Yitz Landes, “On the Beginnings of the History of the Beginnings of Rabbinic Literature.” While the idea

speculative—if the question was interesting in antiquity, we have no record of anyone asking it.

And yet, the rabbinic material most clearly situated in a Roman province of the Theodosian Age glimmers with intriguing tendencies that are both singular among rabbinic texts, and conceptually similar to the developments that I have traced in the wider realm of Theodosian Age scholastic production. Namely, the two facets of Theodosian codification engaged in this chapter appear in the *Palestinian Talmud* as well; it, too, shows scholars dealing with the effects of textual authorization, and it answers the same concerns seen in other Theodosian corpora with similar intellectual strategies. By placing the *Palestinian Talmud* in its Theodosian scholastic context, we may recognize it as a particularly Roman and Theodosian project. The correlation suggests that practices developed within a Christian empire, proffering a Christianized structure of knowledge across the scholastic landscape, came to inflect even the scholarly production of “rabbis [who] proclaimed their alienation from normative Roman culture in every line they wrote.”⁴⁵ A full discussion of the ways in which a peculiarly Theodosian structure of knowledge inflects the *Palestinian Talmud* is beyond the scope of this dissertation; it is probably beyond the scope of any dissertation. I want to offer here a

that the beginning of *Berakhot* should be read as a meta-poetic statement of the *Mishnah*’s ideological program is thoroughly modern, Maimonides does suggest in the introduction to his *Commentary on the Mishnah* that the passage is, nevertheless, meta-poetic as such.

⁴⁵ Seth Schwartz, *Were the Jews a Mediterranean Society?*, 114.

single, efficient example that I argue is illustrative of the place of the *Palestinian Talmud* among Roman provincial literature.

The *Palestinian Talmud* (sometimes referred to as the “Yerushalmi”) is structured as a commentary on the *Mishnah*, and reached its final form sometime early in the Theodosian Age. The text is layered, woven together in a mixture of Hebrew and Jewish Palestinian Aramaic, and while some statements in the text are attributed to named authorities, others remain anonymous. The largest part of the anonymous material comes from the general narrative voice of the *Palestinian Talmud*—known to medieval and contemporary scholars as the “Stam”(סתם—literally, “anonymous.”).⁴⁶ The last generation of scholarly sources named in the *Palestinian Talmud* come from the so-called “fifth generation:” rabbis who lived and worked in the second half of the fourth century. Whether the Stam of the *Palestinian Talmud* should be attributed to the final generations of the named sages, or whether it is a subsequent redactional layer, its temporal context is squarely Theodosian; more precision is impossible given the current evidence.⁴⁷ This is a

⁴⁶ The *Babylonian Talmud* explicitly discusses the presence of a stammatic layer and its source in *Mishnah*, *Tosefta*, *Sifra* and *Sifrei*, in *b. San.* 86a.

סתם מתניתין רבי מאיר, סתם תוספתא רבי נחמיה, סתם ספרא רבי יהודה, סתם ספרי רבי שמעון, וכולהו

אליבא דרבי עקיבא

“The *Stam* of our *Mishnah* [is according to] Rabbi Meir, *Stam* of *Tosefta* [is according to] Rabbi Nehemiah, *Stam* of *Sifra* [is according to] Rabbi Yehudah, *Stam* of *Sifrei* [is according to] Rabbi Simon, and all follow Rabbi Akiva.”

⁴⁷ See Lieb Moscovitz’s discussion in “The Character and Formation of the Jerusalem

work of aggregative scholarship that crystallized into its current form during the Theodosian Age and, as I argue below, the suspicion of documents and rules for deciding that we know from other Theodosian Age works are unequivocally attested only in the latest layer of the *Palestinian Talmud*.

In its tractate on *Heave Offerings* (תרומות), the *Palestinian Talmud* offers a set of rules for deciding between authorized voices.⁴⁸ The rules are given by Rabbi Zeira, a resident of Roman Palestine during the third generation of rabbinic scholars.

[In disputes between] R. Yose, and his colleagues, practice follows R. Yose...R. Zeira [and] R. Jacob bar Idi in the name of R. Johanan [say: in disputes between] R. Meir and R. Simeon, practice follows R. Simeon. [In disputes between] R. Simeon and R. Judah, practice follows R. Judah. One need not mention that [in disputes between] R. Meir and R. Jehudah, practice follows R. Jehudah. R. Ab(ba) bar Jacob bar Idi in the name of R. Jonathan: [between] R. Meir and R.

Talmud.”

⁴⁸ By “rules for deciding” I do not mean the rules like the ones explicated in *b.Zeb.* 49b–51a, which do not concern deciding between authorized sources but are rather generalized rules of logical deduction within the Talmudic system. There are similar rules discussed in *y.Yeb.* 4.11 concerning the relationship of named and unnamed (literally “*stammatic*”) halakhic opinions. I also do not mean the general rules of interpretation attributed to Hillel in *Sifra, Beraita de-R. Yishmael* 1.8. On rules of logical deduction, see Menhem Kahana, “On the Fashioning and Aims of the Mishnaic Controversy” (Hebrew).

Simeon, practice follows R. Simeon. [In disputes between] R. Simeon and R. Judah, practice follows Rabbi Judah, and needn't mention that [in disputes between] R. Meir, R. Jehudah, and R. Simeon, practice follows R. Jehudah. From this you infer that [in disputes between] R. Judah and R. Simeon, practice follows R.⁴⁹ Judah.⁵⁰

The rules are interesting, because they offer for the first time in the Rabbinic tradition an internally consistent algorithm for deciding between scholarly opinions of the *Tannaim* (“Repeaters”) who lived many generations before—mostly in the Antonine Age. The rules are particularly interesting in their Theodosian context because the solution reached to the problem of codified authorities who occasionally disagree is remarkably similar to the solution reached in the *Law of Citations* above. Yehudah Brandes has analyzed this

⁴⁹ רבי יוסי וחביריו להכה כרבי יוסי...

רבי זעירא ר[בי] יעקב בר אידי בשם ר[בי] יוחנן: ר[בי] מאיר ור[בי] שמעון הל[כה] כר[בי] שמעון. ר[בי] שמעון ור[בי] י[ה]ודה הל[כה] כר[בי] יודה. ואין צריך לומר ר[בי] מאיר ור[בי] יהודה שהל[כה] כר[בי] יהודה. ר[בי] בא בר יעקב בר אידי בשם ר[בי] יונתן ר[בי] מאיר ור[בי] שמעון הל[כה] כר[בי] שמעון. ר[בי] שמעון ור[בי] יודה הל[כה] כר[בי] יודה. ואין צריך לומר ר[בי] מאיר ור[בי] יהודה ור[בי] שמעון הל[כה] כר[בי] יהודה. ומינה את שמע ר[בי] יודה ור[בי] שמעון הל[כה] כר[בי] יודה

⁵⁰ *Y. Ter* 3.1. Readings according to Leiden 4720 (Scaliger 3) as transcribed on

Ma'agarim. The spelling of “Rabbi Jehudah” is inconsistent in the manuscript, and is reflected in the translation. Translations of the Palestinian Talmud made with reference to Heinrich W. Guggenheimer, *The Jerusalem Talmud*, and with the help of Amit Gvaryahu.

passage in the context of the *Palestinian Talmud* as a whole and has found that not a single *sugya* (pericope, roughly) contradicts these simple rules for deciding between conflicting opinions that were initially proposed by R. Yohanan in the late third century.⁵¹ Building on Brandes's work, Richard Hidary demonstrated that it is likely only the anonymous layer of the *Palestinian Talmud* which unequivocally endorses rules for deciding between voices that were first suggested over a hundred years before.⁵² The Theodosian layer of the *Palestinian Talmud* embraces a common answer to an obvious problem of codification, one known from other Roman sources of the period. The Sassanian recension of the same text, however, takes a very different approach.

The *Babylonian Talmud* (sometimes referred to as “the *Bavli*”) was compiled in Sassanian Iraq some two centuries later, and it contains a parallel to the Palestinian Talmud's rules on deciding in its own tractate on *Communal Mixing* (ערובין). The *sugya* comprises two parts. First, the same rules from the Palestinian tractate on *Heave*

⁵¹ Brandes, Yehuda. “The Beginnings of the Rules of Halachic Adjudication:

Significance, Formation and Development of the Rules Concerning the Tanaic Halacha and Literature.” (Hebrew)

⁵² “R. Ḥaninah son of R. Abbahu quotes a decision made by three Palestinian rabbis in accordance with R. Yose. The anonymous voice of the Yerushalmi then wonders why this was necessary when such a decision could be derived from the rules. This question reveals the viewpoint of the Yerushalmi that the rules were accepted by the Amoraim and therefore that any ruling in accordance with them is superfluous.”

Hidary, *Dispute for the Sake of Heaven*, 55.

Offerings are repeated. What follows is a sustained discussion of the validity of rules for deciding, including six countervailing cases where the rules are shown to be riddled with exceptions, if not useless altogether.⁵³ “Thus, the two parts of the *sugya* actually stand in tension with each other, one stating the rules and the other questioning them. The first part is parallel to the Yerushalmi presentation, while the second part is unique to the Bavli. The Yerushalmi never doubts the authority of the rules, not in [*Heave Offerings*] nor anywhere else... The *Bavli*, however, does quote the controversy and leaves it open-ended, suggesting that the *Bavli* editors themselves saw reason to doubt the categorical application of these rules.”⁵⁴ While there is reason to believe that the compilers of the

⁵³ “The first three attempts all have the same caveat, i.e., perhaps the rule applies only in the absence of a ruling regarding that specific case. This set of three cases is obviously a literary creation since only the first case is necessary to make the point. Cases 2 and 3 do not technically pose any problem since they are also exceptions to the rule in which there was an explicit ruling. Nevertheless, the repetition of such cases does have a rhetorical effect of making the audience realize how futile the rule is if there can be so many exceptions.” Hidary, *Dispute for the Sake of Heaven*, 52–3.

⁵⁴ Hidary, *Dispute for the Sake of Heaven*, 50. If it is true, as Issac HaLevy argued, that the Stam of the Bavli knew and used the conclusions of the Stam in the Yerushalmi, then we have here and even clearer rejection of a peculiarly Theodosian methodology. On HaLevy’s argument see Alyssa Gray, *A Talmud in Exile*, 12. See also Gray’s own similar argument regarding the Bavli’s apparent knowledge of the stammatic layer of the Yerushalmi in *Avodah Zarah*. Gray, *A Talmud in Exile*,

Bavli's anonymous redactional layer knew and responded to its redactional counterpart in the *Palestinian Talmud*,⁵⁵ the *Bavli* as a whole arose out of and crystallized in a remarkably different intellectual and political milieu. Here we see one vestige of the intellectual contexts of these two remarkable projects; while the Roman provincial compilers embraced rules for deciding, Sassanian rabbis were, at very best, ambivalent about them, and inconsistent in their application.

The *Stam* of the *Palestinian Talmud* unequivocally supports, and applies, rules for deciding.⁵⁶ But parallels with aims and methods of the wider Roman epistemic project are

Chapter 5: "The Provenance of Anonymous Material in the *Bavli* and the Role of Anonymous Material in *bAZ*'s Appropriation of *yAZ* (Micro Analysis III)."

⁵⁵ See Alyssa M. Gray, *A Talmud in Exile*, 175–195, on the relationship between the *Bavli* and *Yerushalmi*'s anonymous materials in *Avodah Zarah*. The point stands whether the *Yerushalmi*'s stammatic material was known directly to the compilers of the *Bavli*, as Gray suggests, or whether correspondences are understood as arriving out of a *talmud qadum*, as suggested by Shamma Friedman, *Talmudic Studies*, 46–47, among others.

⁵⁶ And, as Richard Hidary notes, it is only in the stammatic layer of the *Yerushalmi* that these rules are considered ironclad. Hidary, "Tolerance for diversity of halakhic practice in the Talmud," 408–10. Hidary does discuss one case in the *Yerushalmi*, noted by Brandes ("The Beginnings," 249n51), where Amoraim decide against Rabbi Yose—at *y. Shab* 6.5, 8c. "However, that case involves the colleagues of Rabbi Yanai, the first generation Palestinian Amora who preceded Rabbi Yoḥanan and therefore

not restricted to the invocation of rules. Like the *Law of Citations*, the Yerushalmi's *Stam* also witnesses to a suspicion of authorized traditions, and to creative solutions to the problem of intermittently unreliable transmitters. The tractate *Fast Days* (תעניות) undertakes a discussion of private fasts and their relationship with a particular holy day, the Ninth of Av.

It has been taught, "The Ninth of Av that coincided with the eve of Sabbath, a person eats even an egg and drinks even a cup so that this person should not enter the Sabbath while fasting," so the words of R. Yehudah. R. Yose says, "He should complete the fast." R. Zeirah in the name of R. Yehudah, R. Ba, R. Imi bar Ezekiel in the name of Rav, "The halakha is in accord with him who says that he should complete the fast." Why did he not simply say, "Practice follows R. Yose?" There are reciters who recite⁵⁷ and swap the words of the sages.⁵⁸

The problem under discussion in this *sugya* is less relevant than the solution adopted by the *Yerushalmi*'s redactional layer. The core issue is that two rabbinic authorities disagree. In normal circumstances, the rabbinic student following along with the discussion, regardless of the particular issue at stake, could predict the solution reached: namely, that "The halakha is in accord with him who says that he should complete the

would not have known the rules." *ibid.*, 412n38.

⁵⁷ "אית תניי תני" is a fixed phrase within the rabbinic corpus, and there are some 250 distinct passages in the Yerushalmi alone in which it appears. See Lieb Moscovitz, *The Terminology of the Yerushalmi*, 64–68..

⁵⁸ *Y.Ta.* 2.15, 66b. See nearly identical moves in *y.Ta.* 1.3, 64a and *y.Kil.* 9.3, 32b.

fast.” This is, after all, simply an application of the rules for deciding laid out in the passage of *Heave Offerings* discussed above: “[In disputes between] R. Yose, and his colleagues, practice follows R. Yose.”⁵⁹ The *Palestinian Talmud* is famously terse, and the anonymous redactional layer rarely offers clarifying information that can be gleaned from the discussion or that should be known by the rabbinic student already.

Accordingly, the *Stam* clarifies why it is that such an obvious answer, in this case, is nevertheless worth recording in full: because some rabbinic scholars “swap the words of the sages,” such that the wrong name might be attached to halakhic guideline leading to an improper judgment made on the basis of the rules for deciding.⁶⁰ Here, in the voice of the *Palestinian Talmud*’s Theodosian redactor, we see the complexities of applying rules for deciding even in a tradition of tightly controlled legal recitation where editorial obtrusion is difficult, to say the least. The application of such rules is intimately bound up with suspicion of the tradition itself, and extra care is taken in this and other *sugyot* to ensure that rules are applied to the correct tradition, because the existence of instability in the source of citations renders the rules for deciding of limited utility. In this case, suspicion of documents causes famously terse redactor of the *Palestinian Talmud* to become uncharacteristically loose lipped.

Hayim Lapin is right to stress that “what makes the rabbinic movement so striking

⁵⁹ *Y.Ter.* 3.1.

⁶⁰ It is not clear whether the concern here is over accidental or purposeful re-attribution of halakhic opinions in order to change the outcome of a debate. The latter is particularly common in the Bavli.

is the juxtaposition between an apparently thoroughgoing Romanization of the subject population and the emergence, precisely where we expect Romanization to be most effective, of groups of men who organized to express their non-Romanness.”⁶¹ And yet, in these divergences between Sassanian and Palestinian Rabbis, we can start to glimpse glimmers of regional variability; we can start to see the ways in which Roman ways of knowing, and reaction to epistemic problems, may have found expression even in a corpus of material that disclaims its Romanness.

Amit Gvaryahu has argued recently that rabbinic laws on usury show that Palestinian rabbis held a shared concept of the scope and definition of a “loan” with the Roman jurists even while they rejected the substantive law embraced in Roman courts.⁶²

The difference in the substantive law... is what enabled the rabbis to say, and in

⁶¹ Hayim Lapin, *Rabbis as Romans*, 65.

⁶² From the Roman perspective, Rabbinic courts would have been understood under the rubric of roman arbitration (*arbitrium ex compromisso*). See, for instance, the comparative discussion between a Gentile “Alexis” (ליכסה) and R. Mana in *y.Shev.* 7:9, comparing Roman legal praxis around legal summons (using the Greek terms, as one might expect in the East, for instance דיאטיגמטין for διάταγμα) with Rabbinic. (Discussed in Hayim Lapin, *Rabbis as Romans*, 119–123.) See also *CTh* 2.1.10, a law of Arcadius and Honorius (Feb 3, 398) that appears to confirm the duty of arbitration in a provincial court in all matters except “those which pertain to the teaching of their religion” (*quod ad religionis eorum pertinet disciplinam*), the only exception being civil matters may be adjudicated by a Jewish judge only if agreed by both parties.

all likelihood to sincerely believe, that their law and the Roman law were “different.” That they did not follow the laws of the Romans, they did not avail themselves of their courts, they did not abandon the laws of the Torah and of their ancestors. They were upright in following the commandment, “and you shall not follow their laws.” But at the same time, some rabbis at least needed to be able to say that the Torah was, in fact, a *law*, and as such it shared much, in discourse, scope, heuristics and definitions, with the law of the Romans...But we should also bear in mind that for its adherents, rabbinic law was at its core *not* “Roman.” Borrowing and structural similarities were, for the rabbis, a way to effect distinctiveness.⁶³

My argument here is similar to Gvaryahu’s, but I see borrowing on an epistemic level in addition to a structural one. The *Palestinian Talmud* is thoroughly out of step with the other works of Theodosian Age scholarship engaged in this dissertation. For one, it wasn’t written down. The idea of an authoritative oral tradition that stood beside scriptural material was, quite literally, anathema to Nicene Christians. Yet, the *Yerushalmi*’s compilers were part of the Roman world that they rejected in part.⁶⁴ Berytus (modern-day Beirut), the epicenter of Roman law in Late Antiquity, lies just over 100

⁶³ Amit Gvaryahu, “Rabbis and Roman Jurists on Navigating Financial Markets.” Lecture delivered at the University of Chicago on November 10, 2019

⁶⁴ The classic statement on the Greco-Roman context of classical rabbinic texts is Saul Lieberman, *Hellenism in Jewish Palestine*. For an assessment of the *Bavli*’s Sasanian context, see Shai Secunda, *The Iranian Talmud*.

miles north of Caesarea Maritima, on the Levantine coast. The form and content of the *Palestinian Talmud* exclaims its singularity on the Roman scholastic landscape. But some of its underlying assumptions about the production of authoritative knowledge give the tradition away as arising partially within a Theodosian Age epistemic framework, facets of which we have seen time and again over the last five chapters. This epistemic framework has a provenance, too: it is inflected by Christian ways of knowing, forged in the fires of doctrinal controversy. The effect of my analysis, too, is to help situate the *Stam* of the *Palestinian Talmud* in its Theodosian context, and to stress both the coherence of these facets of its epistemic framework within the Roman scholastic context of the late fourth century, and to help differentiate ideologically, and perhaps also temporally, between the stammatic layer of the *Yerushalmi* and the last generation of named sages.

Conclusion

This chapter has attempted to demonstrate the ways in which Theodosian Age scholars read and interpreted differently from their predecessors because of exigencies related to the aggregative format. From the *Law of Citations* to the *Acta* of church councils and even in the *Palestinian Talmud* we see Theodosian readers grappling with the fact of codification, and employing remarkably similar intellectual strategies in reading and interpreting intellectual products of the late fourth and early fifth centuries. Rules for deciding, and an institutionalized suspicion of documents and archives, proliferated through the scholastic landscape in response to changing formats and aims detailed in chapters five through seven. “...new readers of course make new texts, and

their new meanings are a function of their new forms.”⁶⁵

⁶⁵ Donald F. McKenzie, *Bibliography and the Sociology of Texts*, 29.

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It is a characteristic of human thought that our concepts do not stay put behind the neat logical fences philosophers like to erect for them. Like sly coyotes, they slip past these flimsy barriers to range far and wide, picking up consorts of all varieties, and, in astonishingly fecund acts of miscegenation shocking to conceptual purists, leave offspring who bear a disturbing resemblance to the wayward parent and inherit the impulse to roam the old territory. The philosophical guardians of these offspring, trying to shake off the taint of sexual scandal but feeling guilty about the effort, don't quite know whether to cover up a concept's pedigree or...deny that it matters.¹

I have attempted to trace a constellation of ideas about truth, and how a variety of late ancient scholars thought about, and went about, bringing it to light. Even *if* truths are unchanging, there is a history to the way that people have sought to access it. That history is obscured when modern disciplinary boundaries become wardens of our historical imagination, limiting our estimation of ancient networks of influence. This dissertation has argued that the rise of Christianity in the Roman empire caused a revolution in meaning-making, and that as Nicene Christians came to hold positions of imperial power, their argumentative methods and aims found expression in domains of knowledge production far removed from theology.

I argued that Christians were not always “people of the book”—that, instead,

¹ Elizabeth Anderson, “Feminist Epistemology,” 62.

antiquity witnesses a spectrum of Christian approaches to finding truth. Some preferred to understand truth as something latent in textual traditions: letters and “memoirs of the apostles” whose text will yield an abundance of universally binding precepts if read with the right set of assumptions and hermeneutical strategies. Others, like Tertullian, saw truth as fundamentally pretextual, while others still found textual interpretation to be an impotent distraction; the author of the *Gospel of Truth* asserted that truth could not be contained in language, let alone on parchment.

But a group of textually interested Christians were the recipients of imperial largesse from an emperor who was, after all, Roman, and concerned with the same “peace of the gods” that had preoccupied emperors before him. Constantine’s obsession with unity, and the relationship between doctrinal harmony and heavenly favor, led him to demand a solution to a theological problem roiling the clerical elite: a problem predicated on the idea that scriptural texts held cosmic truths, and that those truths were accessible through close scrutiny. But, beginning already in the 320s, Constantine and his advisors found that the underdetermined nature of scripture itself frustrated any attempt to divine universal doctrine solely through textual interpretation. Factions arose, each claiming different interpretations of the same text. A group of clerics debating the relationship of the Christian Father to the Son found scriptural interpretation incapable of answering the question with satisfactory finality, and disputants on either side of the debate invented new tools to answer the question that traditional epistemic methods were unable to adjudicate.

Theological scholars conceived and refined these tools during a generation spanning the middle decades of the fourth century, while Christians gained stature and

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their numbers swelled across the empire. By the time that Theodosius I ascended to the purple and instituted a violent purge of anti-Nicene voices, the ground rules of theological discourse had fundamentally shifted; Christian scholars of the late fourth century went about producing knowledge differently from their predecessors, and it was these same Christian scholars who came to hold the reins of power across the empire under the aegis of Theodosius I and his dynastic offspring.

Ideas, including ideas about how one might get at truth, are remarkably fecund. I have argued that Nicene Christian scholars came to power in the Theodosian empire armed with an epistemology inflected by doctrinal controversy, but that this peculiarly Christian structure of knowledge did not long remain solely the purview of theologians. A manner of thinking about universal truth—including a fundamental interest in universal truth itself as a worthwhile pursuit—found its way from the rarified air of theological disputation into other domains of knowledge. Across the ideological and intellectual landscape of the Theodosian empire, scholars searched for universal truths in their own areas of expertise, and they did so using a method of aggregation, distillation, and promulgation that was initially conceived to settle a thorny theological dispute. Christian and Traditionalist scholars alike took up this method in works of law, history, and miscellany. Glimmers of it can even be seen in the *Palestinian Talmud*, helping us to situate that production as particularly Roman provincial literature.

The proliferation of an epistemic framework which began as a theological tool through “secular” domains is an aspect of Christianization. It shows us how dominant modes of thought can be ported from one field of inquiry to another, in the same way that, for instance, the earliest critical scholars of the bible used advances in genetic and

evolutionary theory to understand the relationship between texts and the proliferation of “heresies” in the early Jesus movement.²

In Late Antiquity, legal scholars used the dominant epistemic framework to craft the *Theodosian Code*. Given the Christian beginnings of that epistemic framework, we could conclude that, therefore, the *Theodosian Code* is a Christian production.

Alternatively, we could say that the Christian/non-Christian distinction fails to attain. We could contend that, if the adjective “Christian” is to have any analytical purchase, it must be capable of making a distinction; because the epistemology underlying the *Theodosian Code* was dominant, we might argue that it doesn’t *mean anything*—it doesn’t make a difference—to say that the use of a “Christianized epistemology” in the framing of the *Theodosian Code* serves to categorize the work as Christian.

What I want to say is that the answer to the question depends on the analytical interests of the person asking. When describing the great scholarly productions of the Theodosian Age, the Christian/non-Christian distinction may be a distraction, or a distinction without a difference. At the same time, there is value in understanding the history of the epistemic structure that inflects the production of the first universal statement of Roman legal truth, or a great late ancient work of bookish antiquarianism like Macrobius’s *Saturnalia*. As I have told it, that history is inflected by the great doctrinal disputes of the early fourth century, and in this sense the history of juristic epistemology, antiquarian method, and Christian theological disputation are intimately intertwined. I have tried to trace the inter-implication of Christian ways of knowing and

² Yii-Jan Lin, *The Erotic Life of Manuscripts*.

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Roman modes of scholastic production, and to show that Christian doctrinal disputes affected ancient people even when those ancient people did not know, or care, about the theological truths under discussion.

Historians can write history even if they don't know the history of historical method. Many scholars of antiquity write beautifully compelling, methodologically sound historical accounts without knowing the ins-and-outs of Prussian academic culture and nationalist fervor that initially animated the modern historical method. Historians can perform intensive, virtuosic post-structuralist analyses deeply indebted to the "literary turn" without any knowledge of what happened in Paris and in Berkeley during the 1960s and 70s.³ So, too, could a Theodosian Traditionalist, or Christian, write a miscellany, history, military handbook, or code of law that employed Nicene Christian methods even if they had little or no knowledge of the contours of the Nicene controversy itself. This is the argument that I have made in my dissertation: that there is a history to how people think about producing valid knowledge, and in this instance, understanding the theological disputes of the fourth century helps us to contextualize the scholastic field of the fifth.

I could have told the story in any number of ways. I have chosen to tell this story in this manner because I think that it helps to elucidate a number of fascinating shifts in Late Antiquity that reverberate even today. My major focus, on bishops and jurists and the

³ The fact that Elizabeth Clark had to write a book about 'how we got here' only further illustrates the point. Elizabeth A. Clark, *History, Theory, Text: Historians and the Linguistic Turn*.

shared epistemology between them, is not exclusive of other scholastic network entanglements during the Theodosian Age. Rather, bishops and jurists present a potent test-case, helping to clarify the extent of epistemic connection across ancient disciplines that today are studied in very different corners of academe. The Theodosian Age reverberates in contemporary society most potently, too, from the epistemic overlap in juristic and theological scholarship. We clarify the notion of law as a fundamentally textual and interpretive discourse, for instance, by understanding a time when it was not, and by investigating the circumstances in which law codes first started to look like bibles, and vice-versa. The strange, fetishistic power of books in contemporary American discourse, in which the final act of presidential investiture is accomplished with a politician's hand on a bible, has part of its roots in the conflation of code, codex, and codification explored here, and the institutionalization of material, biblical power that spread through the Roman empire of the late fourth century. The extraordinary durability of these ideas has obscured their complex genesis in Christian Rome of the fourth and fifth centuries. By diving deep into the literature and material of the period, we may yet uncover some pearls of great price that help to understand what it means for a society itself to "become Christian."

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