

"In *The Christianization of Knowledge in Late Antiquity*, Mark Letteney offers a profoundly new and powerful analysis of late ancient intellectual life. He argues that a new model for social authority gave rise to a new form of argument, whose prestige status shaped developments across disparate fields of inquiry, from theology to law and far, far beyond. It's a book with a thesis, and it deserves to be read and debated by anyone interested in late antiquity."

– Clifford Ando, University of Chicago

"This daring synthesis explores a change almost too big to be seen. Letteney shows how the Christian search for certitude in matters of theology spilled over in the fourth and fifth centuries to affect other disciplines – Roman law, Greek philosophy, even rabbinic argument. The result was a new cultural ideal that attempted to press from an exuberantly diverse ancient heritage the pure, translucent honey of universal truths.

– Peter Brown, Princeton University

"The Christological convulsions of the fourth century did more than establish Nicaea as the index of orthodoxy. They changed how knowledge was generated. They changed how texts were deployed and read. They changed the nature – and the physical format – of the book itself. *The Christianization of Knowledge in Late Antiquity* reconstructs this revolution in reading practices and politics, a revolution that affected jurists and rabbis no less than bishops and emperors. In tracing how shifts in book forms led to shifts in thinking, Mark Letteney offers nothing less than a new means to measure how Christianity profoundly altered the culture of late antique Rome."

– Paula Fredriksen, Boston University

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LETTENEY
THE CHRISTIANIZATION OF
KNOWLEDGE IN LATE ANTIQUITY

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THE CHRISTIANIZATION OF KNOWLEDGE IN LATE ANTIQUITY

*Intellectual and Material
Transformations*



MARK LETTENEY

The Christianization of Knowledge in Late Antiquity

Intellectual and Material Transformations

MARK LETTENY

University of Washington



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The Christianization of Knowledge in Late Antiquity

The Christianization of Knowledge in Late Antiquity: Intellectual and Material Transformations traces the beginning of Late Antiquity from a new angle. Shifting the focus away from the Christianization of people or the transformation of institutions, Mark Letteney interrogates the creation of novel and durable structures of knowledge across the Roman scholarly landscape, and the embedding of those changes in manuscript witnesses. Letteney explores scholarly productions ranging from juristic writings and legal compendia to theological tractates, military handbooks, historical accounts, miscellanies, grammatical treatises, and the *Palestinian Talmud*. He demonstrates how imperial Christianity inflected the production of truth far beyond the domain of theology – and how intellectual tools forged in the fires of doctrinal controversy shed their theological baggage and came to undergird the great intellectual productions of the Theodosian Age and their material expressions. Letteney's volume offers new insights and a new approach to answering the perennial question: What does it mean for Rome to become Christian? This title is also available as Open Access on Cambridge Core.

Mark Letteney is an assistant professor of history at the University of Washington. He holds a PhD from Princeton University and has held fellowships at the American Academy in Rome and the American School of Classical Studies in Athens. He is coauthor, with Matthew D. C. Larsen, of *Ancient Mediterranean Incarceration* (University of California Press, forthcoming 2024).

“Mark Letteney’s book approaches the question of the rise of Christianity in the late Roman Empire through a new perspective: not the more traditional one of Christianizing people, doctrinal controversies or demographic changes, but that of knowledge structures. The book is characterized by a particularly careful exegesis of the sources and a very extensive comparison with the earlier literature. It stands out for its great originality and is an uncommon example of how productive research in Late Antiquity can be given the aptitude for capturing the echoes that can come from texts of diverse origins.”

– Lucio De Giovanni, Università di Napoli Federico II

“Letteney’s remarkable new book charts the impact of Christianity not on religion or institutions – the focus of so much work on early Christianity – but rather on the organization of knowledge and the production of meaning in Late Antiquity. Drawing on a range of specialized texts (law codes, technical and bureaucratic treatises, military handbooks, and so on), he demonstrates that the particular forms of meaning-making that emerged in the context of theological and doctrinal dispute became broadly generalized in late-antique thought, and could be found in everything from the writings of the jurists to the *Palestinian Talmud*. A compelling and sensitive new sociology of knowledge, *The Christianization of Knowledge in Late Antiquity* will be required reading for students of early Christianity and the cultures of Late Antiquity, and will also be of interest to everyone working on the production of knowledge in premodern societies more generally.”

– Carlos F. Noreña, University of California, Berkeley

“Mark Letteney has produced a remarkable book that seeks to answer a question of relevance still today: What difference did Christianity make to Rome? Letteney contends that the fourth century was not a time of pagan–Christian conflict, nor a simple transition from a Roman to a new Christian empire, but rather a period of rupture as well as creative construction in the very ways in which fourth-century Nicene Christians made arguments and conveyed knowledge. These changes were promoted by the emergence of the codex and of new tools of Christian scholarship that promulgated a novel and long-lasting late antique book-oriented culture. Drawing on Roman law, ancient technical treatises, Christian theology, and Rabbinic texts, Letteney shows the development of this shared book culture and new scholarly practices that gradually permeated the empire and transcended religious differences as Nicene Christians emerged in the late fourth century in positions of power as the new elite of Rome. Letteney’s book thus provides original and thoughtful insight into why the Christianization of Rome matters to intellectual as well as religious history.”

– Michele Salzman, University of California, Riverside



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*For my parents, Debbie and John, who have always loved
me anyway.*

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Abbreviations

- ACO *Acta conciliorum oecumenicorum*, edited by Eduard Schwartz, 4 vols. (Berlin: De Gruyter, 1914–40); note: conciliar sessions follow the numeration set out by Hefele and Leclercq, *Histoire des conciles d'après les documents originaux*, vol. 2, in two parts (Paris: Letouzey, 1907)
- ANF *Ante-Nicene Fathers*, 10 vols. (Edinburgh: T & T Clark, 1867–73)
- AW *Athanasius Werke*, edited by Hans-Georg Opitz. (Berlin: De Gruyter, 1934–)
- CCSL *Corpus Christianorum Series Latina* (Turnhout: Brepols, 1953–)
- CI *Codex Iustinianus*, edited by Paul Krüger, *Corpus Iuris Civilis*, vol. 2 (Berlin: Weidmann, 1877)
- CIL *Corpus inscriptionum latinarum* (Berlin: De Gruyter, 1862–)
- CLA *Codices latini antiquiores: A Palaeographical Guide to Latin Manuscripts Prior to the Ninth Century*, edited by Elias Avery Lowe et al. (Oxford: Clarendon, 1934–1971)
- CMG *Corpus medicorum graecorum* (Berlin: De Gruyter, 1927–)
- CPL *Corpus papyrorum latinarum* (Wiesbaden: Harrassowitz, 1958)
- CSCO *Corpus scriptorum christianorum orientalium* (Leuven: Peeters, 1906–)
- CSEL *Corpus scriptorum ecclesiasticorum latinorum* (Vienna: Geroldi, 1866–)
- CTh *Codex Theodosianus: Theodosiani libri XVI, cum constitutionibus Sirmondianis*, edited by Theodor Mommsen with Paul Meyer and Paul Krüger (Berlin: Weidmann, 1905)

- D* *Digesta*, edited by Theodor Mommsen and Paul Krüger, *Corpus Iuris Civilis*, vol. 1 (Berlin: Weidmann, 1870)
- GCS* *Die griechischen christlichen Schriftsteller der ersten drei Jahrhunderte* (Berlin: De Gruyter, 1897–)
- ILCV* *Inscriptiones latinae christianae veteres*, edited by Ernst Diehl, 3 vols. (Berlin: Weidmann, 1924–1931)
- LCL* *Loeb Classical Library* (Cambridge, MA: Harvard University Press, 1911–)
- LDAB* *Leuven Database of Ancient Books*, www.trismegistos.org/ldab, edited by W. Clarysse and M. Depauw.
- Mansi* *Sacrorum conciliorum nova et amplissima collectio*, edited by Giovanni Domenico Mansi, 53 vols. (Paris: Welter, 1901–1927)
- NPNF* *Nicene and Post-Nicene Fathers*, edited by Philip Schaff (series 1 and 2) and Henry Wace (series 2), 14 vols. (Edinburgh: T & T Clark, 1886–1900)
- PG* *Patrologia graeca*, edited by Jacques Paul Migne (Paris, 1857–1886)
- PL* *Patrologia latina*, edited by Jacques Paul Migne (Paris, 1844–1864)
- PLRE* *The Prosopography of the Later Roman Empire*, vol. 1, *a.d.* 260–395, edited by A. H. M. Jones, J. R. Martindale, and J. Morris (Cambridge: Cambridge University Press, 1971); vol. 2, *a.d.* 395–527, edited by J. R. Martindale (Cambridge: Cambridge University Press, 1980)
- SC* *Sources Chrétiennes* (Paris: Cerf, 1942–)
- SEG* *Supplementum epigraphicum graecum* (Leiden: Brill, 1923–)
- TM* www.trismegistos.org, M. Depauw and T. Gheldof, “Trismegistos: An Interdisciplinary Platform for Ancient World Texts and Related Information,” in *Theory and Practice of Digital Libraries – TPD 2013 Selected Workshops* (Communications in Computer and Information Science 416), edited by Ł. Bolikowski, V. Casarosa, P. Goodale, N. Houssos, P. Manghi, and J. Schirrwagen, 40–52 (Cham: Springer, 2014)
- Urk.* *Urkunden zur Geschichte des arianischen Streites*, edited by Hans-Georg Opitz, *Athanasius Werke* 3.1 (Berlin: De Gruyter, 1934)

Christianizing Knowledge, or a Beginning of Late Antiquity

[N]ew readers of course make new texts, and their new meanings are a function of their new forms.¹

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.” Jones had asked the question before, and devised a succinct response: “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” ideal,³ while others, such as Brown,⁴ Matthews,⁵ Von Haehling,⁶ MacMullen,⁷ Van Dam,⁸ Trombley,⁹ Salzman,¹⁰

¹ McKenzie, *Bibliography and the Sociology of Texts*, 29.

² Judge, *The Conversion of Rome: Ancient Sources of Modern Social Tensions*, 10.

³ *Ibid.*, 19.

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

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

⁶ Von Haehling, *Die Religionszugehörigkeit der hohen Amtsträger des Römischen Reiches seit Constantins I. Alleinherrschaft bis zum Ende der Theodosianischen Dynastie*.

⁷ MacMullen, *Christianizing the Roman Empire: A.D. 100–400*.

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

⁹ Trombley, *Hellenic Religion and Christianization: c. 370–529*.

¹⁰ Salzman, “How the West Was Won: The Christianization of the Roman Aristocracy in the West in the Years after Constantine”; Salzman, *The Making of a Christian Aristocracy: Social and Religious Change in the Western Roman Empire*.

Barnes,¹¹ and Brenk¹² 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” culture,¹³ to which Alan Cameron offered the important corrective that the “battle” between Christians and the last pagans of Rome was one-sided, at best: “While late antique Christians certainly saw themselves as engaged in a battle with paganism, what is much less clear is whether pagans saw themselves fighting a battle against Christianity.”¹⁴

Often, modern scholars have mirrored skeptical ancient counterparts in their 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 Neoplatonic philosopher Marius Victorinus. The philosopher would often say to the churchman, “You know that I am already a Christian,” and the bishop would reply, “I won’t believe or count you among the Christians until I see you in a church of Christ.”¹⁵ 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 “yes.”

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

¹² Brenk, *Die Christianisierung der spätrömischen Welt: Stadt, Land, Haus, Kirche und Kloster in frühchristlicher Zeit*.

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 it is in danger of becoming meaningless.

Hunt, “Christianising the Roman Empire: The Evidence of the Code,” 143. Robin Whelan is among the few contemporary scholars approaching the question of Christianization beyond simple allegiance. See especially a recent *Journal of Roman Studies* 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: Expectations of Christian Officials in the Theodosian Empire,” 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 Cameron, *The Last Pagans of Rome*, 10.

¹⁵ *Confessions* 8.2(4) Text LCL 26. All translations are my own unless otherwise indicated.

Here I return to the question of Christianization, asking again, “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. 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 at 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 structure of meaning-making in the Roman empire. My goal is to trace shifting practices of knowledge production in the fourth and fifth centuries, paying particular attention to scholastic sources in the domains of theology, historiography, and law.

This is to make a rather simple claim, but perhaps one with significant implications. There is no “rise of Christianity” beyond the “rise” – increase in social standing and influence – of large numbers of individual Christians. I argue that investigating a shift in the way that individual, influential Christians make arguments can offer insight into the rise of Christianity generally because during the years of the Theodosian dynasty the methods of these individual, influential Christians were taken up across scholarly disciplines by Christians and non-Christians alike, and far beyond the realm of theology.

This is a study of what counts as a fact. In trying to understand what counts as a fact, I have done what countless sociologists and historians of science did before me: go to the laboratory where facts are produced and pay close attention to their conjuring. What I’ve found is similar to what historians of science have remarked since the early days of that discipline, namely that “scientific fact is the product of average, ordinary people and settings, linked to one another by no special norms of communication forms, who work with inscription devices” in the form of “writing, schooling, printing, [and] recording procedures.” “The mysterious thinking process that seemed to float like an inaccessible ghost over social studies of science,” Latour writes, “at last has flesh and bones and can be thoroughly examined. The mistake before was to oppose heavy matter ... to spiritual, cognitive thinking processes instead of focusing on the most ubiquitous and lightest of all materials: the written one.”¹⁶

In his study of Pasteur’s work on a bovine anthrax vaccine, Latour insists that the scientist’s laboratory is a political space – political in so far

¹⁶ Latour, “Give Me a Laboratory and I Will Raise the World,” 162.

as laboratory results powerfully and fundamentally changed the society into which they were unleashed. But the nature of that change is twofold, and does not consist solely in the solution to a veterinary problem. First, verification of the effect of Pasteur's vaccine required new forms of data to be collected on a national scale and in a novel manner. Knowing whether the vaccine was effective required the expansion of statistical and quantitative methods devised in and for laboratory science to the whole of nineteenth-century French society. Second, the acceptance of such facts, and the economic benefits that compound therefrom, require a lay public to accept a new way of making arguments, presented in forms and formats previously confined to the microcosm of the laboratory. In order for a vaccine's success to become a "fact," laboratory methods of knowledge creation and verification needed to be governmentally operationalized and then societally accepted. Argumentative forms are notoriously fecund, in this way, escaping from the labs which create them and roaming free through a combination of top-down implementation and bottom-up opportunism.

This book studies another time when a novel form of argumentation escaped from the lab. Rather than a microcosm of the farm recreated in a Petri dish, the laboratory that I engage here attempted to form a true micro-cosmos, distilling grand questions of divine ontology to propositional statements, debating those statements, and determining their proper resolution *in nuce* – or in Nicaea, as it were. These scientists (or in this case we should call them "theologians," while keeping in mind that their aims and methods were, in their own estimation, fundamentally empirical) engaged a question of how to define the nature of the deity: what god consisted in, and how the various forms that god takes relate to one another. They created an intellectual lab, overseen by the imperial government and by the deity under discussion, and yet their pronouncements could not be truly universal until and unless their form of knowledge production came to be accepted outside the theological laboratory.

Pasteur had an advantage over the scientists of Nicaea: none of his lab mates came to field trials intent on denigrating the vaccine, as was the case with dueling factions in the wake of Nicaea. Nevertheless, Pasteur's field trials were not widely acceptable until the physical procedures of the lab were duplicated on a national scale: categorizing outbreaks through microbial sampling, isolating agents in the lab, and registering them on a standardized ledger. The acceptance of a scientific fact required the world to replicate the methods of the lab in its approach to the production of reliable knowledge. Likewise, the acceptance of a set of theological

propositions in the fourth century required both the creation of new procedures for devising reliable theological facts and the widespread acceptance of those argumentative methods.

This book tells a story about the creation and implementation of a new way of making theological arguments in Late Antiquity. The forging of a new form of theological praxis is only half of the story, however. In the years after Nicene Christians came to be a ruling elite for the first time, their way of making arguments, devised in a lab and aimed at answering a particular (however cosmic) problem, became detached from the question posed and roamed free. I argue that early in the fourth century, Christians adjudicating all 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 new scholastic regime: new arguments were made in novel ways. By the late fourth century, when these Christians came into power as a ruling elite, their 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.¹⁷ 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, this peculiarly Christian argumentative structure found its way quickly into the domains of law, history, miscellany, and even *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 the creation, verification, and dissemination of facts.

My study pays close attention to the intellectual culture of the Theodosian Age. Or, to borrow terminology from Roger Chartier’s groundbreaking work, I am interested to describe and explain historical

¹⁷ My 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 Goldhill, *The End of Dialogue in Antiquity* and Athanassiadi, *Vers la pensée unique: la montée de l'intolérance dans l'Antiquité tardive*. For a strenuous rejoinder to the latter, see 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 Lim, *Public Disputation, Power, and Social Order in Late Antiquity* and a useful counterpoint in van Nuffelen, “The End of Open Competition? Religious Disputations in Late Antiquity.”

contours of the Theodosian “order of books.”¹⁸ 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.”¹⁹ 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 why the cage took its shape, the underlying logic 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 argumentative expectations in two places. They are visible where scholars explicitly discuss what their work sets out to accomplish, and what constitutes the boundaries of “good” work in their technical domain – a long tradition beginning at least with Aristotle, who urged writers, orators, and even flute players to preface their productions with a short discourse on method.²⁰ Such moments of self-conscious methodological reflection are rare in ancient scholarship, but they prove illuminating when available and serve as an anchor for my discussion. Latent 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,” with this book I aim 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.²¹

¹⁸ Chartier, *The Order of Books: Readers, Authors, and Libraries in Europe between the Fourteenth and Eighteenth Centuries*.

¹⁹ Ginzburg, *The Cheese and the Worms: The Cosmos of a Sixteenth-Century Miller*, xx–xxi.

²⁰ Aristotle, *Rhetoric* 3.14.1–11. ²¹ Ginzburg, *The Cheese and the Worms*, xxi.

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 lie among its leaves. My aim is to describe one such moment of rupture, in which widespread and durable changes in the order of books are visible across 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 book, then, attempts to frame the beginning of Late Antiquity as a moment of rupture not only in politics but in praxis. 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. My work does not describe the only beginning of Late Antiquity, but it describes an important beginning nevertheless.

My argument proceeds in stages. Chapter 1 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. The core of the argument comprises two parts. Part I (Chapters 2–4) deals with the history of Christian argumentative forms and the creation of novel intellectual tools

in early fourth century, and Part II (Chapters 5–8) considers the proliferation of those tools through diverse domains of scholarship in the late fourth through the middle of the fifth centuries CE.

Chapter 2 demonstrates the diversity of Christian approaches to truth before the Constantinian Age. I turn to Constantine and Athanasius in Chapter 3, showing the influence of each on a new way of making arguments that became widespread throughout the Orthodox Christian movement during the fourth century. Chapter 4 traces that new, Christian way of making arguments from the realm of theology into “secular” domains during the Theodosian Age, showing how a scholastic method created to solve theological problems came to be used in legal, historical, and scientific texts of the late fourth and fifth centuries.

Chapters 5–8 comprise a second unit which describes the implementation of new argumentative forms by Theodosian Age writers and readers in the ways that they approach books and in the manuscripts that they produced, copied, and used. Chapter 5 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 bookform for scholastic productions. I turn to manuscripts themselves in Chapter 6, showing first the newly instituted scholastic practices that influenced the production and use of books during the fifth century, and then detailing a number of “Christian” scribal tools that were designfied and reused in “secular” manuscripts of the period in Chapter 7. Chapter 8 describes the net effect of scholastic 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, and an Appendix presents a detailed case study on the *Theodosian Code*, 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.

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 relationships between part and whole. Second, I 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 set of argumentative expectations and practices that are 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 an imaginary legal boundary dividing 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. In 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.”²⁴ Another user of the wall, however, may be a pilot looking to align their plane with the runway ten miles ahead, who knows that the wall happens to sit on the required axis. The old 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. Again in Latour’s framework, in this instance the wall is a *mediator*: “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.”²⁵ These are the senses in which

²² Wittgenstein, *Philosophische Untersuchungen*, paragraph 67.

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

²⁴ Latour, *Reassembling the Social: An Introduction to Actor-Network-Theory*, 39.

²⁵ Ibid.

texts can constitute agents in the world of readers. In cases where an author's intended use of an argument or work line up, more or less, with the way that scribes and readers actualize the material, manuscripts act as intermediaries. This is not always the case, however, because material texts often – perhaps more often than not – work as mediators instead. As Part II argues in detail, their effect on readers can be the result of authorial intention, clever reuses, or unintended eventualities. The passivity of 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; 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 argumentative method 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 beyond the scholars engaged in intellectual debate under the Theodosian dynasty. 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 (*diligentioribus*),”²⁶ while Ambrose affirmed to his congregation that “the faithful interpreter of the mysteries preaches more through silence” than through divulging to the masses that which is rightly the purview of the scholar.²⁷ I hope 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 peers, and intended their work to be engaged and exploited by scholars with like-minded scholastic methods, even when they held divergent substantive commitments.

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 universal. At worst such studies exchange the

²⁶ *CTh* 1.1.5.

²⁷ Ambrose, *Exposition of Psalm 118* 4.18. Text *PL* 15.1247A. See also the same point in 2.26 and 1.2.

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 responds 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 perhaps 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 a small 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 scholastic 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.”²⁸ Instead, I have chosen to begin my project with this chapter, and end with another, in an Appendix. The first describes the imbricated nature of elite scholastic discourses during the period under analysis, while my Appendix presents a analysis of interconnections between Christian and juristic scholarship of the fourth and fifth centuries, demonstrating that the analytical method that I propose can be implemented in terms of purely philological analysis, though such a reduction will always involve loss of explanatory value. Again to paraphrase Masuzawa, the aim of this book is to excavate 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.²⁹ 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 only after the work is complete.

²⁸ Masuzawa, *The Invention of World Religions, Religions, or, How European Universalism Was Preserved in the Language of Pluralism*, 31.

²⁹ *Ibid.*, 21.

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.³⁰ Each argued that the Theodosian Age gave rise to the phenomenon of “patristic commentary,” in which theological arguments moved from a 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, “[i]f the conciliar and imperial enactments of 380–382 ushered in a new ecclesiastico-doctrinal order, they also heralded a new order of books.”³¹

Scholarly description of this “new order of books” in the Theodosian era has only just begun.³² 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 adduced by Christian scholars of the period. In 359, for instance, Hilary famously wrote that “*necessity* introduced the custom of defining the faith and of signing on to the definition (*exponi fides, et expositis subscribi*).”³³ 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 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.³⁴ According to Mark the Deacon, by the reign of Arcadius nearly

³⁰ Vessey, “The Forging of Orthodoxy in Latin Christian Literature: A Case Study”; Rebillard, “A New Style of Argument in Christian Polemic: Augustine and the Use of Patristic Citations.”

³¹ Vessey, “The Forging of Orthodoxy,” 500.

³² See, more recently, Muehlberger, *Angels in Late Ancient Christianity*, 69–79 on preceding Christian epistemic innovations in the 360s–80s, and Dietrich, “Augustine and the Crisis of the 380s in Christian Doctrinal Argumentation.”

³³ Hilary of Poitiers, *de Synodis* 63. Text PL 10.523B–C.

³⁴ On counting senatorial heads see the classic study of von Haehling, *Die Religionszugehörigkeit der hohen Amtsträger* (especially pp. 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 points still to the reign of Gratian or Theodosius I as an inflection point in the conversion of the aristocracy.

all high office holders were Christian, at least notionally – he complains that “many people in positions of honor pretended to have faith” because “if the emperors learned that they did not hold rightly concerning the undefiled faith, they stripped them of honors.”³⁵ I argue that this confluence produced broad-scale changes in the Theodosian era: the imperial decision to define the bounds of Orthodoxy as adherence to a universal statement, along with the rise of 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 public discourse on what could be true, but also how scholars went about proving the point.

In Chapter 3 I argue that this shift in scholarly practice arose from a tradition of doctrinal argumentation that found ultimate value in defining a universal statement and promulgating that statement as the bounds of 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 multivocal 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 as a precursor.³⁶ Yet modern scholars of Roman law have proven 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, as I detail later. 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, that fourth-century debates over Orthodoxy spurred a scholastic shift that defined the contours of a book culture which influenced the *Theodosian Code*, as well as works such as the *acta* of Ephesus and Chalcedon. One may argue that the *Theodosian Code* is a Christian document whether or not it does constructive theological work because it is built according to scholastic specifications which arose from of Christian doctrinal dispute, an argument to which I return in the Appendix.

Contemporary scholars of each of these corpora often explain changes in the format of documents and readerly expectations during the

³⁵ Mark the Deacon, *Life of Porphyry*, 51. Translation George Francis Hill.

³⁶ *CTh* 1.1.5.

Theodosian era on the basis of internal, disciplinary concerns. Changes in legal argumentation result from new legal exigencies, for instance, and shifts in historiographical method can be explained as resulting from an evolution internal to the ancient discipline of history. 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 could be attributable to external, cultural factors, or drift on wider scholastic currents. For example, Seth Schwartz follows generations of rabbinic scholars in arguing that "[t]he 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 they wrote."³⁷ 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. 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."³⁸ 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 in fact quite commonplace. By the time of the *Code's* promulgation, Christian scholars had undertaken similar efforts as their central scholastic 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*.³⁹ He repeats an orthodoxy among

³⁷ Schwartz, *Were the Jews a Mediterranean Society? Reciprocity and Solidarity in Ancient Judaism*, 113–114.

³⁸ Matthews, *Laying Down the Law: A Study of the Theodosian Code*, 30.

³⁹ 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." *Ibid.*, 20.

scholars of 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 account for one simple datum: remarkably similar changes to documentary practice took place across all domains of scholarly literature during the Theodosian Age. It may be the case that similar innovations in the presentation and utilization of textual material coincidentally occurred across traditions simultaneously. However, I argue that in this instance broader changes in cultural expectations of texts – what they are, what they look like, and what they do – simply found varied 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. And, importantly, the changes are not limited to the form of arguments, but extend to the format of scholastic manuscripts from the period, as I demonstrate in Part II.

This is to say something that, on its face, is rather uncontroversial: that the theologians, 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 reading habits and hermeneutic strategies.⁴⁰ 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. Theologians 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.

As Susanna Elm notes of the Emperor 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.”⁴¹ The same could be said of a great number of elite men engaged in late ancient scholarly disciplines. As Blossom Stefaniw rightly observes: “To study

⁴⁰ Harries, “Constantine the Lawgiver,” 81.

⁴¹ Elm, *Sons of Hellenism, Fathers of the Church: Emperor Julian, Gregory of Nazianzus, and the Vision of Rome*, 484.

Christians according to specially Christian categories ... is to reinscribe and reify early Christian ideologies of novelty and singularity.”⁴² It is also to write history between self-imposed blinders. Cognate literatures offer a window on the structure of readerly and writerly expectations, and scholarly disciplines on either side of the redescriptive divide of “theological/secular” are cognate literatures, indeed.

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* share similar concerns. Further, it is 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, I attempt to demonstrate convergences between these corpora on a structural level – to show that Theodosian Age scholars 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.

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 book 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 of internal coherence. For instance, for Jerome, “Christian scholarship” includes works of the 135 men whom he deemed “eminent” (*illustres*) in his explication of the tradition, whether he agreed with their substantive commitments or not.⁴³ 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, on which I have more to say later. 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.⁴⁴

⁴² Stefaniw, *Christian Reading: Language, Ethics, and the Order of Things*, 218.

⁴³ Jerome, *On Eminent Men*. PL 23.602–720. ⁴⁴ CTh 14.9.3.

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."⁴⁵ When I distinguish between "Christian" and "Juristic" work in the Theodosian empire, I invoke this emic distinction.

One intention of this book is to clarify the extent of interimplication of scholastic domains in the Theodosian Age, especially between Christian and juristic scholarship, but also including other areas of literary expertise: history, medicine, military science, and Jewish law. Because of the nature of the comparison and the nature of contemporary scholarship on each domain, I proceed through my argument in two steps. I begin by focusing on the shared book culture evident in of the Theodosian Age which was primarily undertaken by Christians and Traditionalists, 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. I turn to rabbinic sources only at the end of my analysis, offering a reading of the *Palestinian Talmud* in Chapter 7 contextualized by the convergences visible between scholarship in the other domains of Theodosian scholarship. I have two reasons to proceed in this manner. First, avenues of exchange, to which I turn shortly, are significantly clearer between theologians and jurists than among any other scholastic group. The extent and nature of their contact is explicit. On the other hand, as Schwartz argued earlier, rabbis formally disclaim the type of cultural influence that we can see between theologians, jurists, and a wider Roman book culture. The nature of exchange among scholars in the domains of theology, law, history, etc. is reasonably clear; in the case of the rabbis, contact is somewhat more diffuse, and perhaps involved less reciprocity between groups.

Second, this is a book 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.⁴⁶ In order for a comparison

⁴⁵ Humfress, "Ordering Divine Knowledge in Late Roman Legal Discourse," 161.

⁴⁶ Smith, *Drudgery Divine: On the Comparison of Early Christianities and the Religions of Late Antiquity*, 37.

to have useful implications, two objects must be compared on the basis of a single substratum of identity. In this case, comparison between scholars working in and around the various imperial courts 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 a crucible in which to test hypotheses regarding the scholastic environment of the later Roman empire, and its separate discussion is intended to guard against the multiplication of exempla that disbands any useful or rigorous basis for analysis. Only after establishing a “new order of books” can the concepts that it comprises 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 Age. 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 scholars of all stripes living in the later Roman empire.

THEOLOGIAN AND JURISTS

I am hardly the first historian to suggest that theologians 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.⁴⁷ Jerome, too, speaks regularly and learnedly of the Roman juristic tradition, expecting his interlocutors at least to understand his references, such as one in Epistle 77 (399 CE), where he announces that “Caesar’s laws differ from Christ’s. Papinian prescribes one thing, and our own Paul

⁴⁷ 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 popularity and circulation during the Theodosian era. Frakes, *Compiling the Collatio Legum Mosaicarum et Romanarum in Late Antiquity*, 52–59.

another.”⁴⁸ 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*.⁴⁹ 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 to showcase their own elite familiarity with Roman legal culture.”⁵⁰ 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.⁵¹ I hope to demonstrate that theologians 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 already become meaningless by the beginning of the fourth century, during Constantine’s own reign:

[I]nsofar 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 prestige.⁵²

One hundred years before the compilation of the *Theodosian Code*, when the empire, by the most generous estimates, was around 20 percent populated by people identifying as Christian, civic and theological

⁴⁸ *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* 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.

⁴⁹ *On Adulterous Marriages* 2.8.7 and *The City of God* 18.13, respectively.

⁵⁰ Humfress, “Patristic Sources,” 102. See also pp. 99–101.

⁵¹ 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.

⁵² Lenski, *Constantine and the Cities: Imperial Authority and Civic Politics*, 277–278.

disputation were already opposite sides of the same Constantinian coin. 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.⁵³ I add here that the distinction between agendas fails to mark a difference, but so does a distinction between imperial staffs. Members of both *Theodosian Code* commissions corresponded extensively with disputants on either side of important theological debates of their day, and were present and active at the Council of Chalcedon. The "Christianization" of juristic practice is visible not only in the 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*.

My book, then, uses the methods of book history to produce a history of practice, showing how intellectual formats and argumentative tools conceived to answer thorny theological questions became detached from their institutional home and inflected other scholarly disciplines in the period after Nicene Christians came to be a ruling elite for the first time. I intend to bear out with a study of practice what Lewis Ayres has seen through intellectual history, namely that "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."⁵⁴ In Chapter 5 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 argumentative 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

⁵³ Matthews, *Western Aristocracies and Imperial Court*, 129.

⁵⁴ Ayres, "God," 134.

more traditional formats based in scriptural citation as the central avenue of scholarly argumentation. But there is a story of development and difference, of continuity and rupture in scholarly practice, 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 now to this contentious history of Christian proof.

PART I

NEW READERS

A History of Christian Fact Finding

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's 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. He erred, however, when he 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

¹ 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 sixth century BCE altar was erected, though presumably ancient worshippers had a keener understanding than do modern scholars.

Clifford Ando.³ It is difficult to draw a straight line from scholarly practices, such as those involved in augury, to the epistemology which underlie them – it is certainly the case here that what Ando means by “epistemology” is rather radically distinct from the way that the term is used in contemporary philosophical discourse. In all events, as historians, we never study ancient epistemic structures *themselves*, but rather their reflection in scholarly practices and intellectual expectations about what a good argument looks like and how it functions. While studies of ancient epistemology are possible, they consist in studies of practice. In this more limited sense Ando is certainly correct in his reading of Valerius Maximus, who shows us that at Rome priests expected that the content of religious knowledge was ascertained by way of rigorous spatial analysis, in order to determine the identity of the god who provided a sign. Whether this expectation is “epistemic” is a matter of reasonable debate, and I will not wade into it here. What is clear is that in this case an expectation about the proper production of scholastic knowledge – an argument over practices – 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 scholarly 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 that response. 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 the formal basis of scholarly knowledge 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.

This chapter explores Christian scholarly practice from the Antonine Age through the end of Severan dynasty. This book as a whole is

³ Ando, *The Matter of the Gods: Religion and the Roman Empire*, 13.

concerned with the ways in which scholastic 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, methodological concerns impacted not only the obscure scholarly literature of the college of priests but the space of the incipient Roman metropolis. In order to contextualize the seismic shifts caused by the rise of Christianity in the late fourth century, this chapter surveys the tradition of knowledge production 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 how they think a theological argument can be proved. The relative independence of earlier Christian ways of knowing contrasts starkly with the substantial convergence evident among fourth-century Christians adjudicating the Nicene controversy, and the peculiarly Christian scholastic methods underlying and motivating the great scholarly 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 do not present a totalizing, teleological, or internally coherent account of Christian knowledge formation before the fourth century, however. To tell a coherent story that assimilated all of these writers to a trajectory would be an anachronism, and a historical failure. Such an attempt would presuppose the backward gaze of a fourth-century orthodoxy like Jerome's, whose *On Eminent 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 later. 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 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 theologian agreed. These men, however, often arrived at "proto-Orthodox" positions through radically different methods.

Different methods – and perhaps different epistemologies – often undergirded complimentary theological precepts.

In addition to assimilating antithetical methods, 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. In this chapter 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 scholarly method of ancient texts rather than trying to expound precepts which these texts hold to be true. Scholastic methodology – how one goes about the business of producing valid knowledge – can be displayed in any number of ways. One's method may be expressed in absolute terms through an excursus, as I performed in Chapter 1. Alternatively, method can be read from the structure of scholarly argumentation, investigating the underlying precepts of scholarly practice 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 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 later, Clement of Alexandria

⁴ The language of “preceptual knowledge” is taken from Seneca and repeated by Clement of Alexandria, as I show later. 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 sounded strange in Latin. To the charge that this term is useful but unwieldy, he responded “nothing stops me from using this term (*nihil enim nos hoc verbo uti prohibet*)!” I've taken his lead. Seneca, *Epistles* 95.65. Text L. D. Reynolds.

repeated the distinction.⁵ To study “preceptual” knowledge is to study doctrines. To study “epistemic” knowledge, on the other hand, is to study scholarly practices themselves. 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 (*propria . . . praecepta*) 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

Seneca here expresses a typical tenet of Stoic thought: 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. 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 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

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

⁶ Seneca, *Epistles* 94.1. Translations adapted from Margaret Graver and A. A. Long.

⁷ Lehoux, *What Did the Romans Know? An Inquiry into Science and Worldmaking*, 58–59.

⁸ Seneca, *Epistles* 94.2. The last sentence is very likely a quotation from Aristo. I have punctuated accordingly.

those who have been fully admitted and received into its mysteries. But precepts and the like (*praecepta et alia*) are shared also with outsiders. (95.64)

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, or put differently, between doctrines and the method through which doctrines are properly contrived. It is likely that Clement came to this position through the direct influence of Stoic tradition – perhaps from Seneca himself, or perhaps through the mediation of Musonius Rufus.⁹ In any event, the point is not unique to Stoic thought. Clement writes forcefully in his *Patchworks* (*Stromateis*) 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”.¹⁰

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,” there is nevertheless a trustworthy form of knowledge (πιστή 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 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.¹¹

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 roots πιστός and πίστις can describe both the “faith” of a person and the credibility of their argument. Clement is nevertheless clear that *epistemic* knowledge guides the production of truth, and is ultimately foundational:

Preceptual demonstration (ἡ δὲ δοξαστικὴ ἀπόδειξις) is a human matter; it is the product of rhetorical argument or even dialectical syllogisms. The

⁹ Quasten, *Patrology*, Vol. 2, *The Ante-Nicene Literature After Irenaeus*, 12.

¹⁰ Clement of Alexandria, *Stromateis* 2.47.4. Text GCS 52. Translations are adapted from John Ferguson.

¹¹ Clement of Alexandria, *Stromateis* 2.48.1–3. The final quotation is from Paul, 1 *Thessalonians* 4:9.

higher demonstration, which we have suggested is epistemic (ἦν ἡνιξάμεθα ἐπιστημονικὴν), 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. (2.49.2–4)

We are lucky to have extant from antiquity not only traditions of preceptual teaching but also dedicated, philosophical discussions of proper, rigorous scholarly practice. Clement is probably the most eloquent writer and sophisticated theorist that I discuss in this book. 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 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 by 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 SCHOLASTIC PRACTICES

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 scholarly practice 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.¹² Between these positions we find Ignatius of Antioch, whose interest in Septuagint material is significant, but who explicitly rejects the authority

¹² On Marcion see Lieu, “Marcion’s Gospel and the New Testament: Catalyst or Consequence?” 333.

of purely textual arguments in favor of inspired speech. Some early Christians, such as Irenaeus of Lyon and the author of *First Clement*, considered Septuagintal texts to be central *loci* of authority. Others such as 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.¹³ 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 scholarly methodology should not be constrained to studying explicit citational practices – doing so would occlude a vast swath of early Christian material whose producers found little reason to base their arguments in texts at all. The proto-Orthodox movement of the third and fourth centuries (often in response to the work of Irenaeus) homed in on scriptural interpretation as centrally authoritative, but even that status did not last.¹⁴ The late fourth century witnessed a move 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.¹⁵

¹³ Jason BeDuhn has made a compelling case to localize this particular innovation to Marcionite Christians. BeDuhn, “Marcion’s Gospel and the New Testament: Catalyst or Consequence?” 327.

¹⁴ A note on my use of the term “proto-Orthodox”: fourth and fifth century scholars, who considered themselves to be “Orthodox” and called themselves as such, 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 such as those of Marcion and Valentinus. My invocation of the term “proto-Orthodox” is not intended as a statement of ontology. 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 less cumbersome.

¹⁵ Vessey, “The Forging of Orthodoxy.”

There is a sense in which the Nicene controversy was the last scriptural controversy, in which the proper interpretation of New Testament texts was the crux of the issue. Chapter 3 turns to the controversy itself, where I argue that the dispute played a significant role in the promotion of credal 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 cultures and epistemic frames within which early Christians moved and breathed. Chapter 4 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 even 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 theological method to be coterminous with Orthodoxy. Chapters 3 and 4 trace the development of that method, using brief examples to show the variety of Christian scholastic methods. My aim is not just to show that variety of method preceded the coalescence of scholarly practice at Nicaea, and the overhaul thereof in its aftermath. Rather, I want to denaturalize the idea that Christians, in antiquity, were always and singularly interested in text, and that there is any central coherence even among proto-Orthodox thinkers regarding what texts were and how they were to be used. Christians on both sides of the Nicene controversy were textual fetishists, and by the late fourth century their particular and ultimately *peculiar* approach to books came to define scholarly practice far removed from the theological domain. It is hard to understand just how radical the scholastic revolution of the Theodosian Age was without a background upon which to see its contours. I turn to that background now.

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.¹⁶

¹⁶ 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.

A collection of his letters survives in three recensions of varying lengths and coherence, 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.¹⁷

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.” In fact, he contends that “without these [officials of various ranks], a group cannot be called a church!”¹⁸ Ignatius’s concept of authority is 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.¹⁹ 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!’”²⁰ 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 Holy Spirit, who told him directly to instruct them, “Do nothing apart from the bishop!”²¹ Of particular note here is that Ignatius, who occasionally quotes from the Septuagint²² and has demonstrable knowledge of a corpus of Pauline letters, nevertheless witnesses a form of argumentation wholly removed from exegetical concerns.²³ Paul’s own letter to the Romans stands

¹⁷ An overview of the textual tradition is available in Given, “How Coherent Is the Ignatian Middle Recension: The View from the Coptic Versions of the Letters of Ignatius.”

¹⁸ Ignatius, *Trallians* 3.1.

¹⁹ 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. Ignatius, *Philadelphians* 1.1.

²⁰ *Ibid.*, 7.1. ²¹ *Ibid.*, 7.2.

²² 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.

²³ William R. Schoedel, *Ignatius of Antioch: A Commentary on the Letters of 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 Köster 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. Köster, “Synoptische

transparently in the background of Ignatius's as a stylistic exemplar, and while he shows some interest in prophetic writings in so far as their messages "anticipated the good news,"²⁴ he explicitly rejects the notion that "ancient records" such as these hold any authority of their own. Attempting to skewer his opponents, Irenaeus exclaims: "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.'"²⁵

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)." 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."²⁶ Here Ignatius states explicitly what remained implicit in his other letters: while scriptures may be interesting and valuable in 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 nontextual, 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.

Überlieferung bei den apostolischen Vätern," 25–28. For an opposing view, see 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 Köster's absolutist position requires moderation. Köster has been credibly accused of sexual assault by a then graduate student. Pagels, *Why Religion? A Personal Story*, 25–26.

²⁴ Ignatius, *Philadelphians* 5.2.

²⁵ ἐὰν μὴ ἐν τοῖς ἀρχείοις εὔρω, ἐν τῷ εὐαγγελίῳ οὐ πιστεύω. Ignatius, *Philadelphians* 8.2. As Köster and others have noted repeatedly, it is extremely unlikely that "ἐν τῷ εὐαγγελίῳ" refers to a textual source. "Synoptische Überlieferung," 25. This passage is widely discussed. An overview of the scholarship is in Schoedel, "Ignatius and the Archives."

²⁶ Ignatius, *Philadelphians* 8.2.

JUSTIN MARTYR

Justin Martyr's method varied with his audience. He believed in a singular truth, and that sound philosophy would lead a person to god even though they may take a bewildering variety of paths to get there.²⁷ Justin's extant writings are filled with this idea, that the λόγος suffused the world with knowledge of itself, and ultimately of a singular god.²⁸ This 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 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 is 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. Regarding texts, Justin found interpretation a sometimes-useful method, not an aim in and of itself, and certainly not 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."²⁹ Justin recounts learning this method from an old man while he was still on his philosophical journey to Christian

²⁷ Justin's recounts his own journey in *Dialogue with Trypho* 2–7.

²⁸ 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 Holte, "Logos Spermatikos, Christianity and Ancient Philosophy According to St. Justin's Apologies"; Edwards, "Justin's Logos and the Word of God"; and Löhr, "The Theft of the Greeks: Christian Self Definition in the Age of the Schools."

²⁹ This is phrased as a question in the text. *Dialogue* 1.3. Translations made with reference to Thomas B. Falls and NPNF. Text Edgar Johnson Goodspeed.

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 ἔχει· μάθοις δ’ ἂν ἐντεῦθεν).”³⁰ 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 πεποίηται) at the time of their statements, for, as reliable witnesses to the truth (ὄντες ἀξιόπιστοι μάρτυρες τῆς ἀληθείας), they are superior to argumentation (ἄτε ἀνωτέρω πάσης ἀποδείξεως).”³¹ 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). He asserts that these texts are divinely inspired, but even so, for him and Justin both, textual interpretation is not a reliable scholastic tool; even divinely inspired text does not necessarily succumb to interpretation, and thereby offer up reliable insights on the deity. 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 speaks to a singular truth – the same truth that can be found in the writings and doctrines of Plato. 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 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, and interpretation as the singular relevant scholastic method. Irenaeus and the author of the *Gospel According to Luke*, for instance, certainly thought that as a method, proper exegesis of authoritative texts could lead to reliable truth. This 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 one method

³⁰ *Dialogue* 6.1.

³¹ *Dialogue* 7.2. The last two clauses are inverted in the Greek.

of argumentation among many. He takes a very different tack in the *First Apology*, which I discuss later. Justin's seemingly shifting methodology 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 fundamental epistemic change between his *Dialogue* and the rest of his extant works.³² This intuition will not 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, claiming explicitly that the "law of Moses" is incumbent only upon Jews – both conceptually and textually – and that the Christ event rendered it wholly obsolete (11.1–2). Rather, Justin's method mirrors that of his interlocutor, an imaginary Jew.³³ 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.

"So, should any one consult a teacher?" I said, "Or where can anyone find help, if even they [the philosophers] don't have truth?" "A long time ago," [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."³⁴

³² See the discussion in Edwards, "Justin's Logos," 261–267.

³³ 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. Andrew S. Jacobs explores Justin's notion of the relationship between Christians and Jews, and the paradoxical position of Jesus between the two in *Christ Circumcised: A Study in Early Christian History and Difference*, 44–50.

³⁴ *Dialogue* 7.1–2. It is often noted that Justin appears to be working from a *testimonium* of prophetic passages. In fact, the *Dialogue* itself reads as an annotated *testimonium*, aimed

To Justin, the prophets spoke truth, but they were 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 because their writings inspire awe and spoke to the singular truth long before the advent of the Greek philosophical tradition (7.3). Under inspiration of the Holy Spirit prophets grasped the truth themselves, and point to it in their writings. The only way for Justin, or anyone else, to 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” (7.3). 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.”³⁵ Justin speaks in the *First Apology* of the “enlightenment (φωτισμός)” which comes to a person as a by-product of baptism,³⁶ 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 (29.2).

Justin finds great power and solace in the “sayings of the savior,”³⁷ just as he does in the words of the prophets. There is power in Jesus’s words, which have an uncanny capacity 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” (8.2). But for Justin, “the sayings of the savior” are not textual – he does not refer to books.³⁸ In other instances where he speaks explicitly of textualized Jesus material, he doesn’t use the term “λόγοι,” but rather

not at possible Jewish converts but rather at followers of Jesus who engage with Jews. For the relationship between happiness and philosophy see *Dialogue* 3.

³⁵ 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” throughout the corpus.

³⁶ See especially Justin, *First Apology* 61.12 and 65.1. Text Denis Minns and Paul M. Parvis.

³⁷ Justin explicitly says that the teachings of his savior (τὰ ὑπ’ ἐκείνου τοῦ σωτῆρος ἡμῶν διδασκόμενα) are to be understood alongside those of the prophets – as a witness, and not as truth in themselves (18.1). In chapter 20, he rejects the type of authoritative proof-texting offered by Trypho for Jewish abstinence from certain 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).

³⁸ Larsen and Letteney, “Christians and the Codex,” 404–405.

“ἀπομνημονεύματα” – “memoirs” called “gospels.”³⁹ Even if Justin did have 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 these textual sources are to be trusted solely 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 appear to foretell things that had come to pass.⁴⁰ 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?” (27.1). Justin’s response demonstrates further his ambiguous relationship with textual interpretation as a reliable method. His claim is that parts of the biblical prophetic texts, as well as the Mosaic law as recorded, have been abrogated (27.2). In other words, scripture is not a repository for preceptual knowledge and textual interpretation is not a sufficient or even necessary epistemic operation. Truth, for Justin, is pre-textual. Even the bible teems with error and outdated dogma.

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 (πολύκρανός – lit. many headed)” 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 any philosophy based solely on tradition is destined 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:

³⁹ 1 *Apology* 66.3.

⁴⁰ 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.

I want to explain why it has grown so fractured. 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. 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 (ὁπερ ἐκαλεῖτο ὁ πατὴρ τοῦ λόγου). (2.2)

Philosophy became fractious because philosophical schools embraced their founding philosopher rather than the doctrines that he taught. Justin repeats this attack on the authority of tradition in his *First Apology*, which was addressed to the emperor Antoninus Pius. In fact, the beginning of his address calls on the emperor to forsake “the teachings of the ancients (δόξαι παλαιῶν)” when they are of no value and to follow instead the council of “sound reason (ὁ σώφρων λόγος)” (2.1). Only if the emperor is willing to do this are his subjects correct in counting him among the “pious and philosophers and guardians of justice and lovers of learning” (2.2). At the beginning of his plea to the emperor, Justin reiterates his contention that tradition cannot vouchsafe truth, even when the tradition in question has been passed down without error (2.1). 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 methodological 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 in 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 Testament material to prove sociological points about how Christians act, not theological points about what they should believe.⁴¹ 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 3 of the

⁴¹ See especially *First Apology* 6–12.

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.” (3.7)

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 methodological commitments of his interlocutors and to tailor arguments to their approach. 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” (28.2). Justin “bases his suggestions on the writings and on examples” because, by his own admission, he knows that scriptural proofs are useful in the context of debate with Jews. But scriptural 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 one: 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 method is context specific: he switches codes depending on his audience. Sometimes texts constitute an authoritative witness to truth while sometimes they are, at best, a sort of secondary 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.⁴² Neither his own statements about method, nor an analysis

⁴² See Wendel, *Scriptural Interpretation and Community Self-definition in Luke-Acts and the Writings of Justin Martyr*, 87–89, 97–102; as well as Bobichon, *Justin Martyr: Dialogue avec Tryphon, Edition Critique, Traduction, Commentaire*, 1:126–127.

of his work, reveals him to be interested in scriptural interpretation as anything other than a proximate method.

IRENÆUS

Irenaeus wrote in Greek during the last two decades of the second century, and he was the first major Christian polemicist to receive widespread and enduring acclaim.⁴³ His intellectual project is centrally focused on fabricating a new Christian epistemology able to withstand the arguments of his “gnostic” opponents: Christians who claim to have found truth, but whose *gnōsis* 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.”⁴⁴ He thus serves as a fitting place to continue my investigation of the varied scholastic methods that early Christian scholars employed. 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 as a method. At its core, Irenaeus’s opposition to heresy was a project of methodological 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 argued that there is a central aesthetic quality to Irenaeus’s citational practices that is best described with the rule “it is fitting, it is possible, therefore it is.”⁴⁵ In this sense, Irenaeus’s method is not

⁴³ 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 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.

⁴⁴ Osborn, *Irenaeus of Lyons*, xi.

⁴⁵ “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.

fundamentally dissimilar from that of Marcion, who apparently believed that the plan of salvation can be discerned from the structure of salvation; 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.⁴⁶ 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 evolution, and certainly no contradiction. In fact, as will become clear, Irenaeus claims that allowing the *possibility* of contradiction among sources is the animating methodological error among gnostic Christians.

Irenaeus's *Against the Heresies* claims a dual intention: it is both an "uncovering" (*detectio*/ἐλεγχος) and an "overthrowing" (*eversio*/ἀνατροπή) of heretical doctrines.⁴⁷ Surprisingly, in book one Irenaeus hardly relies on textual interpretation at all. This circumstance is curious because elsewhere, Irenaeus leans 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 "overthrow." 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. (Rather like Justin's method, it turns out.) In so far as the aim of book one is an "uncovering" of heretical doctrines and a destruction of "evil interpreters," Irenaeus apparently thought that scripture was not a particularly potent ally.⁴⁸ 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 according to his method,

⁴⁶ For Irenaeus, Osborn gathers this notion under the concept of "Economy." Osborn, *Irenaeus of Lyons*, 21.

⁴⁷ *Against Heresies* 2.pr.2. The Greek title of the work appears to have been Ἐλεγχος καὶ ἀνατροπή τῆς ψευδωνύμου γνώσεως. Eusebius, *Ecclesiastical History* 5.7.1. See Löhr, "The Orthodox Transmission of Heresy," 161–163. Text of *Against Heresies* throughout is taken from SC vols. 100, 152, 153, 210, 211, 263, 264, 293, 294. Translations are adapted from Dominic J. Unger.

⁴⁸ Irenaeus, *Against the Heresies* 1.pref.1.

scripture and tradition are opposite sides of the same coin.⁴⁹ “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*)⁵⁰ so that it would be the foundation and pillar of our faith.”⁵¹ Scripture 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. This is possible, he claims, because the scriptures are in harmony with the teaching of the apostles and because each of the apostles unequivocally 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 safeguarded by those who are everywhere. (3.1.1–2)

Biblical material is an ally for Irenaeus in “overthrowing” his heretical opponents because it is consistent. This is the central tenet of Irenaeus’s 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 assent to the premise. Irenaeus commands that:

⁴⁹ See also *Against Heresies* 1.8.1, where Irenaeus offers a critique of his opponents on these grounds.

⁵⁰ This is typically translated “handed down in the scriptures.” Irenaeus’s original, needless to say, did not read *in scripturis nobis tradiderunt* – this phrasing comes from the Theodosian Age translation of the Greek original, and throughout the translation uses language that was significantly more technical and theologically laden in the late fourth century than it was in the late second, at this text’s time of composition. Rousseau and Doutreleau’s Greek translation in SC 211 is almost certainly the correct rendering of the original: ἐν γραφαῖς παρέδωκαν ἡμῖν. When reading (and especially when translating) Irenaeus’s text, it is of paramount importance to remember the subtle distortions of language brought about by Orthodox Latin translators of the Theodosian Age.

⁵¹ *Against Heresies* 3.1.1.

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. (3.1.1)

Through this hermeneutic Irenaeus was able to build a scholastic method 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.⁵²

So far as surviving material attests, Irenaeus was the first Christian scholar to suggest that Jesus’s message was fully intact only in four distinct “pillars” called gospels, the first to suggest a name, date, and place for “publication” of the gospels,⁵³ 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’s intellectual project.⁵⁴ He is certainly correct: Irenaeus’s hermeneutical methodology 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 method 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 teaching communicated in ritual* – and specifically any form of initiation that could constitute distinct groups within Christian congregations.”⁵⁵ Irenaeus defined a method for the proper production of knowledge in response to, and as a foil for, opposing (“gnostic”)

⁵² It is worth noting that as a descriptive matter, Irenaeus is wrong. In chapter 2 of his *First Letter to the Corinthians*, Paul explicitly claims to preach different messages to people based on their own spiritual maturity.

⁵³ Larsen, “Correcting the Gospel: Putting the Titles of the Gospels in Historical Context,” 89–94.

⁵⁴ Verweyen, “Frühchristliche Theologie in der Herausforderung durch die antike Welt,” 396.

⁵⁵ Pagels, “Irenaeus, the ‘Canon of Truth,’ and the ‘Gospel of John’: ‘Making a Difference’ through Hermeneutics and Ritual,” 349.

approaches to truth production. His opponents claimed that the apostolic teaching which appears in written texts stems from the period before the apostles had received “perfect knowledge.”⁵⁶ 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, which were passed down orally.⁵⁷ Irenaeus agrees with his opponents in part: both hold that scripture is insufficient without tradition. He adds, however, that it is *impossible* for scripture and tradition to diverge; they work together, with one as a check on the other.⁵⁸

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*). (3.4.1)

Methodological error precedes and animates heresy, for Irenaeus. Fortunately, errors of this type are not particularly hard to uncover – a believer can identify it through the preceptual 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: splicing and dicing bits of text to make them say whatever the reader has already decided them to mean:

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 (ὁ τὸν κανόνα τῆς ἀληθείας . . . ὃν διὰ τοῦ βαπτίσματος εἴληφεν), recognizes the names and sayings and parables from the scriptures, but he won’t recognize this blasphemous system of theirs.⁵⁹

For Irenaeus, theological speculation is perfectly acceptable, as is some degree of disagreement within the orthodox community.⁶⁰ There are,

⁵⁶ *Against Heresies* 3.1.1, cited earlier. ⁵⁷ *Against Heresies* 3.2.1.

⁵⁸ See especially *Against Heresies* 3.3–4.

⁵⁹ *Against Heresies* 1.9.4. The Greek is extant due to Epiphanius’s quotation of Eusebius in the *Panarion*.

⁶⁰ Pagels, “Irenaeus, the ‘Canon of Truth,’ and the ‘Gospel of John,’” 347–348.

however, a set of precepts and scholarly methods that are nonnegotiable. The most important of these is the notion that scripture and tradition cannot diverge and that scripture is incapable of contradicting itself.

Irenaeus's scholastic 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 scholarly system: those who held to Irenaeus's methodology carry on the "proto-Orthodox" patrimony.⁶¹ 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 methodological error.

Irenaeus's intellectual project was as much epistemic as it was preceptual, and certainly his effect on later Christian theological scholarship was overwhelmingly epistemic. 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 proper theological method, as well as records of the tradition's "chain of custody," were quoted and thus remain extant in Greek. 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 his method of producing knowledge lived on remarkably intact in the work of subsequent Christian theological thinkers at least through the fourth century, when "apostolic tradition" was refigured around credal 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" (3.2.1). Irenaeus's heretics assert that the truth "was not handed down through written texts (*litteras*) ... but through the living voice."⁶² When he wrote this, perhaps Irenaeus had

⁶¹ Tertullian is the one exception to this; I discuss his case next.

⁶² *Non enim per litteras traditam ... sed per vivam vocem. Against Heresies* 3.2.1.

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 methodology. It was his preceptual commitments, rather than his scholastic 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 battling down heresies rather than constructing a systematic theological program.⁶³ The question of the relationship between scripture, tradition, and heresy, however, gave Tertullian occasion to articulate a theological method on positive terms. His position is found most clearly in *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 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

⁶³ 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 Daniel-Hughes and Kotrosits, “Tertullian of Carthage and the Fantasy Life of Power: On Martyrs, Christians, and Other Attachments to Juridical Scenes,” 22.

to a particular aspect of a case, for instance the validity of a contract.⁶⁴ Whatever Tertullian means by *praescriptio*, it is not precisely the legal use of the term from Roman formulary procedure.⁶⁵ Rather, Tertullian's own use of the term should be understood as a *praescriptio*, 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 interpretive method 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* clearly state answers to metaphysical and Christological questions answered (wrongly) by heretics, but they do not. Tertullian is the earliest extant writer to espouse this position regarding the relationship between textuality and truth. 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.⁶⁶ The existence of heresies was foretold⁶⁷ both by “the sayings of the Lord and ... the

⁶⁴ Gaius, *Institutes* 4.130–137.

⁶⁵ André Sergène shows that Tertullian is at least inconsistent in his use of *praescriptio* and its cognates. Sergène, “Tertullien *De praesc. haer.* XXXVII, 4 et la *longi temporis praescriptio*,” especially pages 607–608. There has long been a debate as to whether 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: A Historical and Literary Study*, 22–29; and 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, the jurist, or to the theologian. Kunkel, *Herkunft und soziale Stellung der römischen Juristen*, 236–240.

⁶⁶ *Concerning Exemptions against Heretics* 6. Text *PL* 2.9a–74a. Translations adapted from ANF.

⁶⁷ *Concerning Exemptions against Heretics* 1, compare Tertullian, *Against Valentinians* 5.

letters of the apostles” (4), 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 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 (*sed acceptam a Christo disciplinam fideliter nationibus assignaverunt*). Therefore, even if an angel from heaven should preach any other gospel, he would be called accursed by us. (6)

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. While his position appears to be quite a bit more absolutist than Paul’s, here Tertullian echoes and extends the apostle’s own admonition to the Galatians that any message which deviates from his own, original teaching – whether from him or even an angel – should be disregarded and the messenger accursed.⁶⁸ In Tertullian’s estimation, the truths that have been revealed are the only truths to which Christians are privy, and they comprise those truths which 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. His position is clear: theological speculation itself is heresy:

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! (*nec inquisitione, post evangelium*) With our faith, we desire no further belief. (*Cum credimus, nihil desideramus ultra credere*) For this is our primary faith, that there is nothing which we ought to believe besides! (7)

The most surprising piece of Tertullian’s excursus on 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

⁶⁸ Paul, *Galatians* 1:8.

“example (*exemplum*)” (8). The *apostles* were told to seek and find. Tertullian argues that they sought, they found, and importantly, there is no longer a need for anyone to continue the process of seeking. 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.”⁶⁹ Textual interpretation, as an epistemic method, was relevant only *before* the advent of truth, brought by Jesus. In the wake of the Christ event searching the scriptures for truth became nonsensical because the texts are not a depository for the preceptual truths to which all Christians must properly accede. Theological seeking beyond the revealed rule of faith is like trying to fit letters into the black blocks of a crossword puzzle after the answer key has been published. A clever person might be able to squeeze some characters in here or there, but doing so contravenes the design of the game and serves only to move them further away from the correct solution.

For Tertullian, true faith is preceptual and tightly bound. But this is not to say that it comprises the extent of *possible* preceptual knowledge – knowledge beyond the “rule of faith” is at least notionally possible. The act of seeking anything beyond that which was received in faith, however, 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 (11). 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 “rule of faith” is itself heresy (11). 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 theological speculation beyond the “rule of faith” is itself heretical, no matter what the outcome.⁷⁰ For Tertullian, there is no such thing as Christian theological speculation.

⁶⁹ *Hanc regulam a Christo institutam nullas apud nos habere quaestiones, nisi quas haereses inferunt, et quae haereticos faciunt.* Irenaeus, *Concerning Exemptions against Heretics* 13–14. *PL* 2.26b.

⁷⁰ Dunn, “Tertullian’s Scriptural Exegesis in *de Praescriptione Haereticorum*,” 147–151.

This is the fundamental distinction 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, attempting to convince "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. Paraphrasing an apocryphal saying of Mark Twain, Tertullian might offer, "never argue with a heretic. They will drag you down to their level and beat you with experience."

For Irenaeus, on the other hand, truth is fractal: it can be continually refined, further and further into the minutiae, 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."⁷¹ 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, by saying little, subtract from it. The fact that some understand more and some less on the basis of their skill does not occur because they change the doctrine itself.⁷²

For Irenaeus, the true message remains the same even when messengers possess different levels of rhetorical ability and theological skill, and proper theological method allows further cosmic truths to be uncovered. In one sense Tertullian agrees: one *could* speculate more into the nature of the cosmos and the divine, but the act of doing so is contradictory because it is predicated on a rejection of revealed truth. According to Irenaeus, there are scholarly methods which allow practitioners to delve deeper than Tertullian's *regula fidei*. Though these methods can lead to the *appearance* of divergent messages, it is sometimes the case that the appearance is merely the same message presented in greater or lesser detail. Different presentations of doctrine are not the result of a mutable truth but of scholarship: some undertake properly guided theological

⁷¹ This is a reference to the *Gospel according to Matthew* 10:24.

⁷² Irenaeus, *Against Heresies* 10.3–4.

speculation and arrive at new truths even beyond the bare reading of scripture, and beyond the “doctrine of faith” that they received at baptism.⁷³

[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. 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.

All of the verbs that Irenaeus uses are verbs of extrapolation: προσπεργάζομαι, 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 ἀπειθείαν 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 that lived on, and not Tertullian’s. Irenaeus’s method motivated disputants at the Council of Nicaea some 100 years later; everyone in attendance believed that the proper scholastic methods, applied to the right set of texts, could yield an abundance of theological truth beyond that which is stated plainly in scripture. While all disputants would accept the content of Tertullian’s “rule of faith,” neither faction would agree with his method. 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 looking to scriptural interpretation to adjudicate their preceptual differences.⁷⁴ 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.⁷⁵ It is an oral

⁷³ Irenaeus, *Against Heresies* 10.4.

⁷⁴ Tertullian mistrusted a number of his period’s common hermeneutical methods, as shown by Hanson, “Notes on Tertullian’s Interpretation of Scripture,” 273–275.

⁷⁵ As Elaine Pagels argues in “How the Gospel of Truth Depicts Paul’s Secret Teaching: A Study in Second-Century Reception History,” the “secret teaching” underlying the

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 theological method. It seems that way because it is. Of the seven 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.⁷⁶ If we did know the author, they would certainly not have made the cut for Jerome’s famous catalogue *On Eminent Men*, which is as good an indicator as any of the intellectual lineage claimed by Nicene Christian scholars of the Theodosian Age, even when the examples were negative. 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 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, textual sources. 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 scholastic methodology 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 nontextual 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

Gospel of Truth may be, or claim to be, the “secret teaching” that Paul alluded to in 1 Corinthians 2:1–8.

⁷⁶ W. C. van Unnik is confident in his hypothesis that “[t]he author of the Gospel of Truth was Valentinus himself.” “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, a position defended by Thomassen, *The Spiritual Seed: The Church of the “Valentinians,”* 146–165; and Thomassen, “Notes pour la délimitation d’un corpus valentinien,” 243–259.

already forecloses a wide variety of approaches to the creation of truth by ancient people equally as Christian as Ignatius, Tertullian, or Justin.

Almost nothing certain is known about the *Gospel of Truth*. 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 of very different sort from any other ancient example of the genre.⁷⁷ 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.⁷⁸ But neither ownership nor composition of a text suggests that the readers or writers considered the *Gospel of Truth* an authority. A. J. 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 Late Antiquity.⁷⁹ I will pass over, then, ongoing arguments as to whether this text is a work of “Valentinian” Christians or not, and whether it is the same “Gospel of Truth (*evangelium veritatis*)” mentioned by Irenaeus.⁸⁰ 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* itself.

My chief concern is to explore the text’s epistemic method: how it conceives of human access to truth. The *Gospel of Truth* is 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, carries the name of no author, and claims to speak only to those who already know the message which it conveys.⁸¹ In this sense it is not wisdom literature, if wisdom literature is meant to impart wise words to people 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.

⁷⁷ Attridge and MacRae, “The Gospel of Truth,” 67.

⁷⁸ Lundhaug and Jenott, *The Monastic Origins of the Nag Hammadi Codices*.

⁷⁹ Berkovitz and Letteney, “Authority in Contemporary Historiography,” 10–11.

⁸⁰ Irenaeus, *Against Heresies* 3.11.9.

⁸¹ Van Unnick, “The ‘Gospel of Truth’ and the New Testament,” 105–107.

The *Gospel of Truth* is called as such by modern scholars because of its incipit, which reads: “The message of the truth [or gospel of truth] (ΠΕΓΑΓΓΕΛΙΟΝ ΝΤΜΗΕ) is joy for those who have received grace from the Father of truth.”⁸² 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.⁸³ 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.⁸⁴

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 went out searching for the one from whom they had come forth” (17.5–6), and succumbing to fear because it could not find the Father, the Totality gave rise to Error, 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 “power and beauty” as a “substitute for truth” (17.18–20). 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” (17.28–29). “Knowledge” in this text is referred to as ΠΙΣΑΥΝΕ, the Lycopolitan spelling of the Sahidic COOYN with a semantic range equivalent

⁸² 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 Grobel, *The Gospel of Truth: A Valentinian Meditation on the Gospel*.

⁸³ 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 the *editio princeps* forward. See, for instance, Cerfaux, “De Saint Paul à L’Évangile de la Vérité,” 103. *Editio princeps* Michel Malinine, Henri-Charles Puech, and Gilles Quispel.

⁸⁴ This point was made first by Hans Jonas and reiterated by Benoit Standaert, but their warnings do not seem to have been particularly effective. Jonas, “*Evangelium Veritatis* and the Valentinian Speculation,” 97. Standaert, “‘*Evangelium Veritatis*’ et ‘*Veritatis Evangelium*,’” 147. Jonas suggested that the “original” title may have been Περὶ τοῦ Εὐαγγελίου τῆς Ἀληθείας (“*Evangelium Veritatis* and the Valentinian Speculation,” 97), and while his suggestion is close to my proposed appellation, I am not convinced that the text carried any title in antiquity. None of the canonical gospels in the second century had “titles” either, even for Irenaeus. See Standaert, “‘*Evangelium Veritatis*’ et ‘*Veritatis Evangelium*,’” 138–141; and Larsen, “Correcting the Gospel,” 89–94. The *Gospel of Truth* is antiquity’s “Monster Mash” – a song *about* the Monster Mash that is not, itself, the Monster Mash.

to that of ἐπιστήμη. The *Gospel of Truth* argues that knowledge came into the world though the agency of Jesus (18.16–21), and that Jesus offers knowledge of the Father only to those who are preordained to receive the truth: those whose names are “in the living book of the living – the one written in the thought and the mind of the father . . . that (book) which no one [but Jesus] was able to take” (19.34–20.6).

This, then, is the core of the epistemic system that undergirds the *Gospel of Truth*: the “true message” is available only to those to whom it has been revealed; “the living who are inscribed in the book of the living” are given instruction “about themselves” (21.4–5). 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” (22.16–20). As in Seneca’s Stoicism, in the *Gospel of Truth*, cosmology, epistemology, and ethics are radically coherent; the system is self-referential, and preceptual knowledge is useless without a correlative epistemic outlook.

The *Gospel of Truth* goes out of its way to clarify that this knowledge is not textual. While textualized metaphors are used – “book (χρῶμε) of the living” (19.35), “a will (διαθήκη)” (20.15), or “the edict (δικταγμα) of the Father” (20.26) – 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 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. (22.38–23.18)

Here the author uses playful, bookish metaphors to 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” – literally, “they are not places of sound nor are they letters lacking their sounds” (23.3–5). The message cannot be contained in textualized form nor spoken in audible words. The *Gospel of Truth* has remarkably little to say positively about either preceptual truths or how one gains access to the “true message.” The message, 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. One possible 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.⁸⁵

In this sense, the *Gospel of Truth* forms an almost perfect contrast both with the traditions discussed in this chapter and 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 4.⁸⁶ Quite apart from the *Gospel of Truth*'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” (ϸΝ ϷENCϷΔİ 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” (3.68.14–22). Here, the *Gospel of the Egyptians* presents the preceptual knowledge which “comes forth” as that knowledge stored away in texts written by Seth, similar to the antediluvian 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.⁸⁷ But it is visible in bits and pieces, and represents a Christian epistemic tradition just as sophisticated as anything in Tertullian, Irenaeus, or Justin.

It is not clear whether the *Gospel of Truth* constituted “scripture” for any community in antiquity. The text is self-effacing; it stresses over and again that truth is not so feeble as to require the written word, and that no language has the power necessary to express truth, let alone convey its

⁸⁵ 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 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.” (67.9–12) Translation Wesley W. Isenber.

⁸⁶ The title derives from Jean Doresse's description in “Trois livres gnostiques inédits: Evangile des Egyptiens. Epître d'Eugnoste. Sagesse de Jésus Christ.” 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 (τῆ βλὸς τῆ ἐρα ἱεροῦ ἡ πνοῦς ἡ ἀποράτου ἡ πνεῦμα).” For a discussion of the title see Böhling, Wisse, and Labib (eds.), *Nag Hammadi codices III, 2 and IV, 2: the Gospel of the Egyptians*, 18–23.

⁸⁷ Pace Thomassen, “Revelation as Book and Book as Revelation: Reflections on the *Gospel of Truth*,” who reads the text both as a “gnostic” tractate 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 the *Gospel of Truth* for a textually grounded epistemology, which the text explicitly (though, apparently, subtly) rejects.

meaning to those who do not possess 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 negative statements can be made with confidence, as a sort of precursor to the late ancient theological outlook attached to the name of Dionysus the Areopagite. Rather, it presents an epistemic system that purposefully 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 theologically foundational is neither obvious nor uncontroversial – even among Jerome’s “eminent men.” Nor was it universal, as we see in the system of knowledge supposed and promulgated by the *Gospel of Truth*.

A misplaced textualism runs through the history of scholarship on the *Gospel of Truth*. 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.⁸⁸ There is at least one problem with this characterization of the *Gospel of Truth*, however. In regard 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 the *Gospel of Truth* 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.⁸⁹ But it would be difficult to discuss the generation of the 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 a sufficiently motivated critic. There may be “scriptural resonances” in the *Gospel of Truth*, and the text as we have it might be a meditation on texts that would eventually become part of the Orthodox Christian canon.⁹⁰ In other words, it might engage in allusion as defined

⁸⁸ Smith, “Constructing a Christian Universe: Mythological Exegesis of Ben Sira 24 and John’s Prologue in the *Gospel of Truth*,” 67. The studies are catalogued in 67n9.

⁸⁹ Cf. van Unnik, “The ‘Gospel of Truth’ and the New Testament,” 107.

⁹⁰ There is even a place where the *Gospel of Truth* 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*

by Devorah Dimant: “a device for the simultaneous activation of two texts.”⁹¹ However, if similar language, or even *purposeful* allusion to a biblical text constitutes “an unwavering commitment to biblical interpretation”⁹² even in the absence of an epistemic method 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” indicates 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 epistemic method, 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 the *Gospel of Truth* 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 the *Gospel of Truth* 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. The *Gospel of Truth* 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 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

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 the *Gospel of Truth*, calls the suggestion that this is an explicit invocation of the Matthean story “queer ‘exegesis.’” Grobel, *The Gospel of Truth*, 129.

⁹¹ Dimant, “Use and Interpretation of Mikra in the Apocrypha and Pseudepigrapha,” 410.

⁹² Smith, “Constructing a Christian Universe,” 67.

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 the source of such signs were identified. Some of the authors investigated in this chapter, such as 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 the *Gospel of Truth* 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 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” (ὀρθόδοξοι) distinguished between correct and heretical theologies on the basis of preceptual (δοξαστικός) knowledge. Jerome's list of “eminent men” who contributed to the Orthodox patrimony demonstrates that even in the waning years of the fourth century methodological diversity among “Orthodox” fathers was acceptable, at least among those who lived 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.⁹³ But he offers no methodological censure of Ignatius, even though he knew Ignatius's rejection of scriptural interpretation, and even though he willingly criticized eminent men like Tertullian for theological, preceptual lapses.⁹⁴

I turn now to the Nicene controversy, in which the underdetermined nature of scripture led to a schism among Christians who called themselves Orthodox (and “Universal”/καθολικοί). 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 such as Athanasius redefined Orthodoxy not only as a series of preceptual truths, but as a set of preceptual truths *arrived at through a newly articulated scholastic method*. It was not

⁹³ Jerome, *On Eminent Men*, 16.

⁹⁴ Jerome, *On Eminent Men*, 53.

enough to arrive at common precepts by way of different scholarly practices, as Irenaeus and Tertullian had done generations before. Diversity of method came to the fore as a theological problem among Catholic Christians. Chapter 3 describes the redefinition of Orthodoxy to include both preceptual and epistemic knowledge.

A Methodological Revolution in Fourth-Century Theology

CONSTANTINE'S IDEALIZED WORLD ORDER: UNIVERSALITY THROUGH UNITY

Constantine was obsessed with unity. We know this because of the archive attesting to his guidance in adjudicating the Nicene controversy, comprising 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 later in this chapter. Rather, he was interested chiefly in the fact of their agreement, and with the relationship between intellectual unity and the bestowal of divine favor on the empire.²

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,³ so that your regions, from which I had hoped medicine would be supplied to others, were now in greater

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. See Drake, "Constantine and Consensus," 5.

³ Here Constantine alludes obliquely to the "Donatist controversy."

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*. 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.⁴

As will become clear, Constantine took his role as mediator seriously. In this letter, dated to 324⁵ (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.⁶ To Constantine, the question was 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 (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 ὁρετῇ 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 should, in a religious commitment of this kind, be of one mind with each other (ὁμοψύχους ἀλλήλοις εἶναι)?⁷

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.⁸ Constantine held that as long as divergent theological viewpoints were justifiable under the umbrella of Orthodoxy they were to be tolerated by the clerical elite. This is a

⁴ 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. Text GCS 7.

⁵ The precise date of these letters is disputed. Throughout I have opted for the traditional dates assigned by Opitz in AW. Sara Parvis has redated (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 Parvis, *Marcellus of Ancyra and the Lost Years of the Arian Controversy*, 325–345, 72–83.

⁶ On 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.

⁷ Preserved in Eusebius, *Life of Constantine* 2.71. ⁸ Eusebius, *Life of Constantine* 2.70.

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 question, then as ever, was how wide the umbrella of orthodoxy cast its shadow, and whether it should be assumed to cover mostly matters of practice or primarily matters of belief.

At first glance, the emperor's fragmentary letter to the church at Nicomedia after the Council of Nicaea sounds like an abrupt departure from the conciliatory tone taken in the previous letter to Arius and Alexander:

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 ἄπασιν), and above all to scrutinize and ultimately dispense with this matter which was conceived through the madness of Arius the Alexandrian, but quickly gained traction by the outrageous and ruinous diligence of Eusebius [of Nicomedia].⁹

This letter appears to present a stark divergence from the letter of Constantine of the previous letter, 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 seem 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 precedent for imperially sanctioned meetings whose aim is to hammer out theological points and arrive at a state of unity.¹⁰ There is

⁹ *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.)

¹⁰ It is unlikely that Constantine attended this council, despite the assertion of Barnes, *Constantine and Eusebius*, 59; and Mark Edwards' hopeful reading of the *Life of Constantine* 1.44 in *Optatus: Against the Donatists*, 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

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.¹¹ Rather, it was Constantine's lifelong obsession with unity that led to his calling for councils in the first place.¹² We cannot then say that his seeming "change of position" relies on the authority of the Council of Nicaea – the authority of the council is a direct result of Constantine's sanction, a patronage borne of his singular concern for unity regardless of the particular, preceptual content of that singular faith.

By his own admission 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 justification. Rather, he warned that dissension may lead the Christian god to withhold favor from his reign.¹³ His letter to Alexander and Arius quoted earlier, 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 ἔθνων περὶ τὸ θεῖον πρόθεσιν εἰς μίαν ἕξωσιν σύστασιν ἐνδῶσαι), 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 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 (ἄπασι τοῖς τοῦ θεοῦ θεράπουσιν) in accordance with my

bishops) nevertheless represented his greater degree of involvement. In any case, he took no active role in the Council itself." Pottenger, "Developing Imperial Doctrines of Power in the Rhetoric of Constantine the Great on Internal Ecclesiastical Conflicts," 75.

¹¹ On the importation of theological dispute into the realm of Roman civil law under Constantine, see Lenski, "Constantine and the Donatists: Exploring the Limits of Religious Toleration," 104–109; and Calderone, *Costantino e il Cattolicesimo*, 230–249.

¹² "The consistency in Constantine's policies had been not doctrines, but the dream of political and religious unity." Van Dam, *The Roman Revolution of Constantine*, 281.

¹³ On Constantine's similar concern regarding the Donatist schism, see Pottenger, "Developing Imperial Doctrines of Power," 68–73.

prayers, the course of public affairs (ἡ τῶν δημοσίων πραγμάτων χρεία) would also enjoy the change consonant with the pious desires of all.¹⁴

Here Constantine claims two interrelated purposes: the unity of doctrine and the prosperity of the empire. These are not separate issues, he clarifies, but two 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 predecessors.¹⁵ 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 εἰλικρινὴς ἀγάπη ὁμογνώμων τε περὶ τὸν παγκρατῆ 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 was 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 . . . 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).¹⁶

A traditional interpretation of this letter would agree with James Stevenson, that Constantine simply misunderstood the significance of the dispute.¹⁷ Seen in the context of Constantine's broader interest in unity and the material consequences of dissent, and taking the emperor's own assertion of intent at face value, we can say that the traditional interpretation is woefully inadequate. Rather, in this letter Constantine

¹⁴ Preserved in Eusebius, *Life of Constantine* 2.64–65.

¹⁵ Van Dam, *The Roman Revolution of Constantine*, 230–234. Some of Constantine's successors, too, took a position of studied impartiality. This was especially the case for Jovian and Valentinian I, on which see Lenski, *Failure of Empire: Valens and the Roman State in the Fourth Century A.D.*, 237–239.

¹⁶ 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.)

¹⁷ Stevenson, *A New Eusebius: Documents Illustrative of the History of the Church to A.D. 337*, 354.

shows that his concern for doctrinal unity was simply not preceptual: he didn't much care what it was that the theologians agreed upon, at least in principle – unity is necessary in the first instance because it is unity that guarantees the general prosperity of the empire.¹⁸ Later in this letter he demonstrates the mechanics of this Christian epistemic commitment in the same way that Valerius Maximus's story at the beginning of Chapter 2 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."¹⁹

Constantine's concern for proper cultic performance as guarantor of divine protection is not unique to him, nor is it peculiarly 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. "[I]ntegration, 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?"²⁰ Imperial stability was always an epistemic concern. Cicero makes precisely the same connection in his *Laws*.²¹ The logic was not unique to Constantine even among early fourth-century Catholics. 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 of everything (ἐνα καὶ τὸν αὐτὸν χρόνον καθ' ὅλης τῆς Ῥωμαίων ἀρχῆς ὑποστάντος εἰρήνῃ βαθεῖα τὰ σύμπαντα διελαμβάνεν). Together – at the same moment, as a single

¹⁸ Whether "unity" was in fact achieved at the Council of Nicaea, what role Eusebius's *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 Dainese, "Costantino a Nicea. Tra realtà e rappresentazione letteraria"; and Sieben, *Die Konzilsidee in der alten Kirche*, 307–314.

¹⁹ Preserved in Eusebius, *Life of Constantine* 3.18. ²⁰ Elm, *Sons of Hellenism*, 123.

²¹ Cicero, *Laws* 2.30.

command of god – two beneficial shoots were produced for humankind: the empire of the Romans and the teachings of true worship.²²

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 (*Vos amicum triumphis patrociniū nolite deserere!*)”²³

Constantine’s concern with intellectual unity was a traditional Roman anxiety over the *pax deorum* refracted through Christian theological commitments.²⁴ 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. Constantine was a Christian, but he was a *Roman* Christian, and he brought Roman ideologies of religion and state to bear on his adjudication of the Nicene Controversy. It was the first time that Christian theology was being done with an army at its back. The fact that Nicene Christians insisted so assiduously and violently on doctrinal uniformity cannot be separated from a Roman ideology of state laid over theological disputation during the reign of the empire’s first Christian sovereign.

The preceding has been an analysis of the scholarly method of early Christians who were actively forging new ideas about scripture and scriptural interpretation. A young Athanasius was present at the

²² Eusebius, *Tricennial Oration* 16.4. Translation adapted from Drake, *In Praise of Constantine: A Historical Study and New Translation of Eusebius’ Tricennial Orations*. Text GCS 7.

²³ Symmachus, *Relatio* 3.3–4. Text Jean-Pierre Callu. Symmachus’s deployment of an imperative (*deserere*) in a letter to the emperor is both striking and indicative of a truly unconventional dynamic between the young emperor and the famous prefect at the height of his power. My translation tries to capture the studied condescension.

²⁴ Lenski makes similar point, on the basis of different evidence, in *Constantine and the Cities*, 78.

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 unity – and thereby the prosperity – that Constantine so desperately desired. By the end of his life Athanasius had shifted away from his youthful contention that 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.²⁵ 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, Orthodox disputants on either side of the Nicene controversy shifted their defensive tactics.²⁶ 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 credal statements of faith. Athanasius’s career reflected, and more often catalyzed, the shift in scholastic method that underlies the Theodosian embrace of creeds and codes explored in Chapter 4. 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.

²⁵ Gregory Nazianzen, *Oration* 21.26. The specific date of this oration is difficult to pin down, but given that Gregory was bishop of Constantinople only 379–381, and that his oration claims to be given in Constantinople (μετὰ δὲ τοῦτο τὴν μεγάλῃσιν, 22), the range of possible dates is slim. On Athanasius’s rocky relationship with Constantine see Lenski, “Early Retrospective on the Christian Constantine: Athanasius and Firmicus Maternus,” 466–471.

²⁶ 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 Constantius: Theology and Politics in the Constantinian Empire*, 19–33.

We see a bit of the young Athanasius, maybe 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 324.²⁷ 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 in support of Athanasius’s polemical ends. First, the letter begins by claiming to be centrally motivated by the Constantinian trope of divinely ordained unity:

Since the Universal 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)

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 credal statements. Specifically, scripture is invoked to falsify a negative creed that (Athanasius asserts) comprises “things that they assert upon discovery, going beyond scripture” (*Urk.* 4b.7). While the faulty “creed” states, for instance, that “the Word of God was not always in existence, but came into being from nothing” (*Urk.* 4b.7), 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?’” (*Urk.* 4b.12).

The ultimate aim of *One Body* is to condemn heresy and to ostracize those who had been condemned, not to interpret scripture or to offer a positive statement of faith for the Universal (“Catholic” καθολική) community. According to Athanasius, the doctrines attributed to “those around Arius” cannot be true because their statements are falsifiable within the framework of scripture (*Urk.* 4b.11). He appeals to the authority of scripture for falsification but not for interpretation. In the words of

²⁷ In 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 Parvis, *Marcellus of Ancyra*, 68–83; and Williams, *Arius: Heresy and Tradition*, 48–59. On this letter specifically, Christopher Stead concluded that “Athanasian authorship of ‘Ενὸς σώματος is not merely probable . . . but demonstrably certain.” Stead, “Athanasius’ Earliest Written Work,” 76.

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.”²⁸

Athanasius wrote *One Body* as a young man, when battle lines of the controversy were still being drawn. At that point there was not even a common term to denote “Arius and those around him.” Thirty years had passed by the time that Athanasius penned the first full account of the Council of Nicaea, and in that interval the polemical and citational outlook had radically shifted.²⁹ The struggle between Athanasius and George was so well known in Egypt that it filtered even into the rural areas, at least according to Constantius II’s letter to the Alexandrians in 357: “Even among those living on the frontier, who is ignorant of the rivalry in the events that have taken place?”³⁰ The emperor wrote another letter that same year, addressed to coregents Aezenes and Sazanes, and claiming that news of Athanasius’s disgrace and exile had traversed the length of the Nile, all the way to the Kingdom of Axum.³¹

The situation was dramatically different in the Latin West, where thirty years on, the Creed of Nicaea was still little known – even among the some of the most outspoken theological minds of the day.³² As late as 359 the necessity of credal statements was not obvious, when Hilary’s exile 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, apparently for the first time, and staking out his position on it.³³ 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 had passed, however, a Christian senator claimed confidently in a Latin treatise for the emperor that the Nicene

²⁸ Muehlberger, *Angels in Late Ancient Christianity*, 63.

²⁹ For a full account of these years, and the pivotal years that Athanasius spent in Rome with Marcellus of Ankyra, see Ayres, *Nicaea and Its Legacy: An Approach to Fourth-Century Trinitarian Theology*, 105–117.

³⁰ Athanasius, *Apology to the Emperor Constantius* 30.3. Text AW 2.8.

³¹ Athanasius, *Apology to the Emperor Constantius* 31.5.

³² Hilary of Poitiers, *Concerning the Synods* 91 (PL 10.545a).

³³ Hilary of Poitiers, *Concerning the Synods* 63 (PL 10.523B–C). On Hilary’s changing rhetoric during exile see Barry, “Heroic Bishops: Hilary of Poitiers’s Exilic Discourse”

Creed was not only universally applicable, but that it was written at a council attended by Christ himself!³⁴ 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 a universal statement by 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 (356–362).³⁵ 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"³⁶ exegetes who justify heretical positions through exegesis of an underdetermined scriptural canon – a canon incapable of refuting Arian arguments once and for all because Arius's supporters continually find new scriptures upon which to base their theological convictions.³⁷ Athanasius knew the problem already in the 320s when he wrote *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" (*Urk.* 4b.16).

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. He begins his *Letter Concerning the Decrees* 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" focus on scriptural interpretation

³⁴ Ambrose, *On Faith* 1.18.121. Text CSEL 78.51.

³⁵ Opitz (AW, 2.1.2115) first suggested a date of 350/351, but I agree with Brennecke that Athanasius's particular concern with defending the term *ὁμοούσιος* suggests that the treatise is most intelligible in the context of the Second Sirmian Formula, composed in 357. Brennecke, *Hilarius von Poitiers und die Bischofsopposition gegen Konstantius II: Untersuchungen zur dritten Phase des Arianischen Streites* (337–361), 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, on which see Ayres, *Nicaea and Its Legacy*, 107.

³⁶ 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.

³⁷ Timothy Barnes rightly argues that 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.

“in extreme perverseness.” When they complain that the creed from Nicaea used terms not found in scripture, they “mutter like the Jews.”³⁸ In typical style, the preface crescendos with Athanasius throwing scripture back at his enemies, paraphrasing *Ezekiel* 11:2. Heretics indeed do something “according to scripture,” he claims, “they have come to an inane conclusion” (1.2).

The problem was that Arians looked to scriptural interpretation as a primary scholastic tool and were, as such, “latter-day Judaizers” (2.1). 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 (17.1). 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.³⁹ 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. Richard Vaggione summarized the situation succinctly:

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

³⁸ “Why did those convened at Nicaea use terms that are not in scripture, like ‘of the essence’ and ‘singular essence’ (διὰ τὴν οὐσίαν καὶ τὸ ὁμοούσιον)?” *Concerning the Decrees* 1.1. Text AW 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.

³⁹ *Concerning the Decrees* 5. The striking correspondence in form and content with *Mishnah Avot* 1 deserves full discussion elsewhere.

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.⁴⁰

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

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. (19.2–3)

In this passage we see Athanasius admit the failure of scripture. As a scholastic method, textual interpretation alone was not sufficient to guarantee the production of true knowledge.⁴¹ 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. "A term [ὁμοούσιος] originally chosen for polemical purposes and without any dense, well-established theological meaning was gradually identified as a key marker of pro-Nicene orthodoxy."⁴²

It is important to remember that this document, written in the mid to late 350s, contains 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.⁴³ Again in the words of Lewis Ayres:

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

⁴⁰ Vaggione, *Eunomius of Cyzicus and the Nicene Revolution*, 53.

⁴¹ Athanasius's tack here is dissimilar, too, from the precise, lexical argumentative method in his *Orations against the Arians*, on which see Muehlberger, *Angels in Late Ancient Christianity*, 66–69.

⁴² Ayres, "Athanasius' Initial Defense of the Term Homousios: Rereading the *De Decretis*," 339.

⁴³ He does use it in passing in *Against the Arians* 1.9, but without the kind of defense it gets in *Concerning the Decrees*.

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.⁴⁴

It is important also to remember that *Concerning the Decrees* is polemical and creative. It is tempting to read Athanasius's scholastic method in line with the modes of argumentation accepted by a later, more established orthodoxy, but his rhetorical strategy was radical and innovative; the treatise shows Athanasius inventing a new scholastic method by polemicizing against a group that, until very recently, was well within the bounds of "Catholic" Christianity. Éric Rebillard's warning is apt: "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."⁴⁵

With the concluding twenty-one chapters of *Concerning the Decrees*, Athanasius responds to the failure of scriptural interpretation to answer the questions posed by the council, he briefly defends the metaphysics of the new credal 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 an Orthodox patrimony stretching back nearly two centuries stands behind the seemingly unprecedented language of the Nicene Creed. 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."⁴⁶

In *Concerning the Decrees*, Athanasius moves beyond his earlier position in which textual interpretation served as a check on and means of

⁴⁴ Ayres, *Nicaea and Its Legacy*, 99. ⁴⁵ Rebillard, "A New Style of Argument," 561.

⁴⁶ *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." *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.

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).”⁴⁷ He does this by offering calques on terms in scripture. For instance, he decrees that whenever the phrase “of the Father” refers to Jesus in a scriptural text, the reader should interpret *as if* it said “from the *substance* of the Father.”⁴⁸ Bart Ehrman’s 1993 monograph *The Orthodox Corruption of Scripture* detailed editorial changes to the text of the New Testament in which late ancient scribes emended manuscripts to say what Orthodox readers knew them to mean. Already in the late 350s, however, Athanasius insisted that valid textual interpretation required an Orthodox corruption in the *reading* of scripture. His exposition of the Nicene Creed uses the rhetoric of scriptural interpretation and traditional authority to propose a radically new hermeneutic dogma, contriving an Orthodox patrimony for an utterly novel theological position and implementing a new scholarly method, along the way.

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 the “canonized” texts which constituted the “divine writings that we have for salvation.”⁴⁹ Athanasius claims that he wrote the letter in response to the problem of “Melitians boasting about books that they

⁴⁷ Lewis Ayres is right to insist that the term itself is not fundamental to Athanasius’s 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.

⁴⁸ See, for instance, 19.4.

⁴⁹ 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 many other Christian scholars in the fourth century, “canonical” texts are only a subset of a larger group of writings known as “scripture” (τὰς θείας γραφάς). Brakke, “Canon Formation and Social Conflict in Fourth-Century Egypt: Athanasius of Alexandria’s Thirty-Ninth ‘Festal Letter’,” 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 the recipient of numerous studies since) is not likely to predate Athanasius’ 39th Festal letter. Claire K. Rothschild has recently made a plausible argument that the fragment itself is a fake, and includes a useful survey of the relevant scholarship. Rothschild, “The Muratorian Fragment as Roman Fake.”

call ‘apocryphal.’”⁵⁰ The letter was written on the heels of 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.⁵¹ At least one of these scriptures, the *Shepherd of Hermas*, was useful enough that Athanasius quoted it approvingly alongside the *Letter of James* in *Concerning the Decrees*, intending thereby to prove the Orthodox patrimony of his message (4). Second, Athanasius’s refutations of Arius from the 310s and 320s don’t evidence any 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 fifty years before Athanasius’s 39th *Festal Letter*, Christian theologians knew what constituted the “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 the Catholic scholars of the mid-fourth century interpreted text. 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 credal 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 credal statements – and above all the Nicene Creed – as a paratext and necessary precondition for authoritative interpretations of canonized scripture. The paratext that he offered had become the text.

⁵⁰ Text CSCO 150. I have written elsewhere about the various distortions read into this letter by presuming that forged texts are mainly at issue. Letteney, “Authenticity and Authority: The Case for Dismantling a Dubious Correlation,” 44–47 and 53n45.

⁵¹ Athanasius, *Festal Letter* 39.75. 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.

This movement from paratext to text served to “canonize” not a particular set of scriptures, which had effectively already been done by the 320s at the latest, 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-textual 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.⁵² 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 υἱόν),” so he must not be called “created being” but “son the lord.” They say “Is it not written?” Of 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 χαρακτῆρα τοῦ Χριστιανισμοῦ), they would not have called the Lord of glory a created being, nor would they find difficulty in what is written well.⁵³

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 semantic point may seem nonsensical, but for Athanasius, the Christological point stands.

Here we see that Athanasius is indebted to scholastic positions traceable to both Irenaeus and Tertullian. His definition of Orthodoxy stands

⁵² On the “scope (ὁ σκοπός)” in Athanasius see Ernest, “Athanasius of Alexandria: The Scope of Scripture in Polemical and Pastoral Context.” My translation is adapted from his. Text *PG* 26.620a.

⁵³ *Letters to Serapion* 2.7. Text *AW*, 449–600.

in the gap between the two, and exploits strengths from each system, even though they are fundamentally incompatible. As I demonstrated in Chapter 2, 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: for Tertullian this 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 which Tertullian fundamentally rejected. Namely, Athanasius holds to the idea that truth is fractal: if the seeker is equipped with the right tools and hermeneutic strategies, truth can be continuously refined and examined to ever greater precision. For Irenaeus and Athanasius alike the question of the relationship between the Father and the Son is discoverable, and even while theological knowledge is progressively refined the nature of the message remains singular.

CONCERNING THE DECREES

A newly minted theological method crystallized in and through Athanasius's scholarly work. In *Concerning the Decrees*, Athanasius argues that an authoritative text has been distilled into the language of Nicaea and that the language of the distillate must be imposed as the authoritative framework for all subsequent reading. Credal 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.⁵⁴

Concerning the Decrees aims to construct a patrimony for the language of Nicaea and to justify the use of nonscriptural terms within a creed that claims to distill the language of scripture into an authoritative statement. Athanasius's treatise includes a 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?" (27.4).

⁵⁴ Aloys Grillmeier has a more generous read on the situation, but structurally his understanding is the same as my own. Grillmeier, *Christ in Christian Tradition*, 2.1.20.

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 decades to come. But the material form of Athanasius’s text also models a new scholastic method based in aggregation. His work was not solely 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*.⁵⁵ A valid demonstration of theological truth, in Athanasius’ estimation, required first the sublimation of scripture to its distillate, along with a demonstration of the Orthodox patrimony of one’s ideas. But truly valid scholarship required one more step, as well: the aggregation of polemical referents, along with any material supporting or otherwise relevant to the question at hand. I argue that Athanasius’ creative work in treatises such as *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, and it is only in the later fourth century that “Nicaea’s terminology gradually comes to be equated with Nicaea’s judgments.”⁵⁶ 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, nonscriptural language, and in order to respond to criticism that seemed to be coming at him from all sides.

The period between 350 and 367 was 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

⁵⁵ *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 that of Theodoret (1.12.1).

⁵⁶ Ayres, “Athanasius’s Initial Defense,” 346.

grievances of the past in order to explain (and discredit) the persecution of the present.⁵⁷

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's 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 Theodosian court 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 years when Athanasius first became a formidable literary figure. 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. His scholastic method quickly became customary.

Theologians defending the Nicene Creed were not the only polemicists who employed the method for which Athanasius's *Concerning the Decrees* is our clearest example. There was an explosion of credal creation in the fourth century, on all sides of the debate, utilizing the same scholastic method of (1) aggregation of a scholastic patrimony, (2) distillation of the patrimony into a creed, and (3) sublimation of further dispute to the newly minted creed. The spate of creeds recorded in Athanasius's *Concerning the Councils* in the early 360s – nearly a dozen – all reflect this same scholarly practice even when making opposite substantive claims. Add to this the fourth-century creeds extant in the later works of Socrates, Hilary, Theodoret, Epiphanius, and the various late ancient and early medieval collections, and it becomes clear that this method, which was created in defense of the Nicene Creed, quickly took over as the gold standard of scholastic methodology in fourth-century theological disputation, at least among theologians claiming Catholic identity.

Within seventy years the argumentative format that Athanasius pioneered in *Concerning the Decrees*, and reflected in the flurry of credal disputation in the 340s, 350s, and 360s, was wholly naturalized for theological disputation. In 434, Vincent of Lérins wrote matter-of-factly about the proper production of theological truth:

⁵⁷ Barnes, *Athanasius and Constantius*, 122.

“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.⁵⁸

CONCLUSION

Athanasius’s work reflected and eventually catalyzed a shift across the domain of fourth-century theological scholarship, at least within the group of theologians disputing the legacy of Nicaea. He and his opponents agreed that the ultimate arbiters of truth were credal statements that had been distilled from authoritative archives, but that it was not sufficient simply to report the distillation of truth. Proper scholarly practice required that universal knowledge which was the result of aggregation be transmitted along with the aggregated sources themselves so that readers could “check the work” of the scholar, so to speak. In the early years of the Theodosian dynasty this mode of argumentation came to be the standard scholarly tactic for knowledge production – first in theological 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 a scholastic method, 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.⁵⁹ The tenacity with which Theodosian dynasts

⁵⁸ 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: Classicism, Provinciality and the Place of the Alien Writer in Late Roman Gaul.”

⁵⁹ Theodosius I was famously violent. See, for instance, the account in Sozomen, *Ecclesiastical History* 7.25 of the Nicene emperor’s massacre of a large, predetermined 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” of victims required by the emperor (7.25.5–6). The parallels to Hitler’s massacre at Fosse Ardeatine are striking and chilling, and the incident was not unique: Theodosius

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 Traditionalist worship. Even in the structure, motivations, execution, and reception of “secular” Theodosian scholastic productions we can trace a new scholarly method, born of the Nicene controversy.

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 fifty years on the Supreme Court under a single president who packed the courts with originalist judges: jurists who take up Scalia’s scholastic method even when they disagree with his 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.⁶⁰ In such 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 set of scholastic practices born of theological controversy to become embedded in the broader society. I argue that these practices are visible in Theodosian productions ranging from theological tractates to legal codifications to the *Palestinian Talmud*. In this sense, “Christianization” exists in practices. Even when Athanasius’s opponents disagreed with his theological claims, they mirrored back his argumentative method. As I argue in Chapter 5, even when some influential scholastic productions of the

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 Shaw, *Sacred Violence: African Christians and Sectarian Hatred in the Age of Augustine*, 38–46), Theodosius’s father ordered the rebellious Constantinian Infantry “killed in the old-fashioned way,” while the Fourth Cohort of Mounted Archers were subjected to killing except for their leaders, whose right hands were ritually severed. Ammianus Marcellinus, *History* 29.5.22.

⁶⁰ 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 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 Pelikan, *Interpreting the Bible and the Constitution*.

Theodosian Age reject or are ambivalent to Christian theological propositions, nevertheless we can see the effect of Christian scholastic methods 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.

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 an 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 traditional by the time that he wrote in the sixth century.² The

¹ Leontius of Jerusalem, *Against the Monophysites*. PG 86.1849C. Translation Gray.

² Some scholars have made the case that the tendency toward “publizistische Sammlungen” began only in the sixth century. The notion began with Schwartz, *Publizistische Sammlungen zum acacianischen Schisma*, 287, but it was taken up famously by Grillmeier, *Christ in Christian Tradition*, 2.1.21. The idea has been repeated more recently

metaphor of following the example of a bee when reading and digesting information transparently invokes Lucretius's *On the Nature of Things* 3.11, a perennial favorite among the Latin literary elite, evoking an eclectic pattern of reading and borrowing from sources in a variety of genres.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 centuries, as “an aesthetic of accumulation.”⁴ Another way to describe the increasing centrality of aggregation as a precursor for valid scholarly work is to say that such scholarship takes part in “the rise of the code.” Both will suffice as a description of the strange contours of a shifting 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 3. I argue that the move to aggregation as a foundational tool did not long remain strictly within the purview of Christian theological scholarship. Rather, the rise of aggregation 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 later. 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

by Gray, “Through the Tunnel with Leontius of Jerusalem: The Sixth-Century Transformation of Theology,” 189–190, 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 scholarly methodology; each takes a feature of sixth-century book culture and presumes 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 Seneca repeats the metaphor in *Letter* 84, and Jerome invokes it in his letter to Vigilantius. Jerome, *Letters* 61.1. The classic study remains immensely valuable: von Stackelberg, “Das Bienengleichnis: Ein Beitrag zur Geschichte der literarischen ‘Imitatio’.”

⁴ Johnson, *Literary Territories: Cartographical Thinking in Late Antiquity*, 29–60.

of interpretation, and even, ultimately, to the possibility of a text like the *Theodosian Code*.

INTERPRETATION AND "PATRISTIC COMMENTARY"

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*)."⁶ Vincent insists that the latter – orthodox patrimony – is necessary to consult because the former, which he defines as "the canon of scripture," is dangerously underdetermined.

Here perhaps someone will ask, "Since the canon of Scripture (*scripturarum canon*) 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

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.⁷

⁵ Vincent of Lérins, *Commonitorium* 1.2 Text PL 50.637C–678.

⁶ *Commonitorium* 1.2. Translation adapted from Ando, "Scripture, Authority and Exegesis, Augustine and Chalcedon," 216–217.

⁷ "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

A generation before Augustine, Hilary of Poitiers understood the indeterminacy of scripture as the reason that Christian theologians of his generation fundamentally changed their method. 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 argumentation among Christians on the eve of the Theodosian Age. He writes in his treatise *Concerning the Synods* that in generations past “you didn’t long for a scribe to write what you believed in your heart 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: “Necessity, however, introduced the custom of defining the faith and of signing on to the definition (*exponi fides, et expositis subscribi*)” (63). 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 incapable of performing.

Hilary saw the production of truth as a project involving two primary operations: first aggregation of a patrimony and 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 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

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.” Augustine, *Confessions* 12.31(42). Translation LCL 27.

⁸ Hilary of Poitiers, *Concerning the Synods* 63. Text PL 10.479–546B. Translations adapted from NPNF.

that in treating of divine things these adequate and manifold definitions might leave no room for danger or obscurity. (62)

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” (63). 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 earlier in the works of Vincent and Augustine, and as we will see later in the works of Ambrose and Jerome, this change was predicated on the indeterminacy of scripture exposed by the Nicene controversy, resulting in the need to join the patrimony of the Catholic tradition to the results of scriptural interpretation.

Late ancient Christian scholars knew about the shift in Christian scholastic methodology described in Chapter 3 and they actively reflected upon it in the later fourth century and the beginning of the fifth. Hilary wrote his *Concerning 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 – readings 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 method that would 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 from the 350s through 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, it is theoretically possible to produce a final statement of universal truth in theology, or in law, simply 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.⁹

We likely will never know what comprises the full content of Jerome’s proposed *leges commentariorum*. He does gloss the term briefly in *Against Rufinus* 1.16, but never reflects on these “laws” in an extended manner. It is clear that he does not have in mind norms like those laid down by the contemporary theologian Tychonius, which have to do with the process of exegesis. Rather, the “laws of 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 restated his expectation that proper argumentation cites many diverse opinions 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*).¹⁰

Here, Jerome voices an expectation that aggregation is the proper method for scriptural commentary, but he also shows a concern for the

⁹ Jerome, *Commentary on Jeremiah* pro.3. Text CSEL 59. Translation adapted from Michael Graves. Jerome writes further about the *praecepta dicendi* in *Letter* 108.3.

¹⁰ Text PL 24.0377B. Translation adapted from Thomas P. Scheck.

eventualities brought about by this method of argumentation. While he clearly expects that scholastically 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.¹¹ I return to this and other concerns stemming from the centrality of aggregation in the Theodosian Age in Chapters 6 and 8. For now I simply note that fourth- and fifth-century commentators were cognizant of issues of discernment related to their chosen form of argumentation, where it may not be immediately apparent to a reader which of the many opinions presented was endorsed by the author of a work.

For Jerome, the function of a commentary is to collate interpretations and 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.¹² As Jerome states, and as I argue later, 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. (3.11)

This method, which “is the custom and the rule of exegetes,” is schoolboy stuff, according to Jerome – the classical rhetorical education through which Jerome, Rufinus, and their scholarly peers were all trained necessarily included reading “Asper’s commentaries on Vergil and Sallust, those of Vulcatius on Cicero’s Orations, of Victorinus upon his Dialogues and the Comedies of Terence,” etc. (3.11). The inclusion of a variety of opinions has a long and august history, according to Jerome,

¹¹ This is not to say that any Orthodox authority can be called upon as an authoritative witness in the same sense. For instance, in *On the Merits and Forgiveness of Sins* 3.6.12, 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,” 567–568.

¹² Jerome, *Apology against the books of Rufinus* 1.6. Translations adapted from NPNF. Text PL 23.395–492A.

even if the underlying rationale for doing so had shifted fundamentally in the preceding generation.

Jerome's long-form attack on 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 the previous quotation, 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 that of a translator. Rather, Rufinus's sin was 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" (3.11). Rufinus opened himself up to the charge of heresy by failing to stick to commentarial practices accepted by Theodosian Christians and Traditionalists alike. 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)."¹³ 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* and emends errors introduced in Rufinus's Latin translation, offering "the unadorned facts (γυμνὰ τὰ πράγματα) in order that the history might not become verbose, and weary the readers with tedious matters of detail" (2.1.5). The second edition, however, had a higher aim and a nobler audience: it was a work intended for a scholar. As such, Socrates claims that this second version used current scholarly methods, by which he meant that it was a work of aggregation: it brought together a variety of sources without alteration, because this was the only way that Socrates thought the 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. (2.1.6)

Socrates worked in the budding discipline of *Ecclesiastical History*. He had a few examples upon which to base his own contribution to the

¹³ Socrates, *Ecclesiastical History* 2.1.4. Translations adapted from NPNF. Text SC 477.

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 which Socrates worked, and claimed to bring together bits and pieces quite literally as a συγγραφεύς – one who collects facts into a narrative. Eusebius’s introduction offers that “we shall attempt through historical narration to create a body (δι’ ὑφηγήσεως ἱστορικῆς πειρασόμεθα σωματοποιῆσαι)” from such scattered sources as he is able to lay eyes upon.¹⁴ Now, Eusebius’s aims and his results are distinct: his work is not a coherent tapestry, in fact, but rather a messy patchwork, often presenting archival sources stitched into a narrative frame in a way that struck his readers as original and methodologically savvy.¹⁵ But his stated aim was “to create a body” from such distinct sources. As with the work of other scholars engaged in this book, Eusebius’s and Socrates’s methods, at times, appear to be identical, and in more than a few instances their results significantly align. But in this case and others, scholars working in the same discipline performed similar tasks for different reasons, with distinct aims calibrated to the intellectual culture of their generation.

Socrates claims to have produced a first edition for the masses, one that has clear methodological resonances with Eusebius’s *History* and following similar aims. 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, involving 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 impudent¹⁶ and – worse yet – incomplete, because it failed to bring together both heretical and orthodox material.¹⁷ According to Socrates, Sabinus’s book was

¹⁴ Eusebius, *Ecclesiastical History* 1.1.4.

¹⁵ I thank Anthony Grafton for stressing this point, and reminding me (in a private email) that “The point is not just that [Eusebius] worked from archives (though he did). It’s that his use of primary sources really impressed people as distinctive – including Rufinus, who deliberately mistranslated Eusebius’s statement about his research in 6.20.1 and wrote his replacement books for *HE* in a very different style.”

¹⁶ Socrates, *Ecclesiastical History* 1.9.28. On Sabinus’s “Anti-Nicene” collection see Hauschild, “Die antinizänische Synodalaktensammlung des Sabinus von Heraklea,” and on Socrates and Sozomen’s use of the source see Barnes, *Athanasius and Constantius*, 205–208.

¹⁷ Socrates, *Ecclesiastical History* 2.17.10–11. Text SC 493.

scholastically useless because it was methodologically flawed: it did not aggregate.

Sozomen wrote his own *Ecclesiastical History* in the 440s, dedicating it to Theodosius II. 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” – meaning from the time of Jesus’s life – but upon reflection that such luminaries as Clement, Hegesippus, Africanus, and Eusebius had already treated such matters exhaustively, he decided rather to offer only an abridged version and to focus on events beginning with the reign of Constantine.¹⁸ 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 approach to the production of an authoritative history wrestles both with the need to aggregate archival material in its original form and 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 builds on the method that he learned from Eusebius, but the direction that Socrates took shows that he was intimately familiar with what was expected from him as a Theodosian 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 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). (I.I.I.13–14.)

Here we see Sozomen’s extraordinary attention to documents, his intention to offer as many and as wide-ranging views as possible, and his

¹⁸ Sozomen, *Ecclesiastical History* I.I.I.11–12. Translations adapted from NPNF. Text GCS 50.

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 favored their own heresy, omitting the ones contrary (οἱ δὲ ἐκείνοις προστιθέμενοι συναγωγὴν ἐποιήσαντο τῶν ὑπὲρ τῆς οἰκείας αἰρέσεως 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 ἀκρίβητον), it seemed to me necessary to look extensively into any such documents of this type, according to my ability. (I.15–16)

It is of course inevitable that such dossiers will skew to one ideological pole or another, and Sozomen's own "collection" has a thoroughgoing partisan agenda. At stake for my argument is not whether Sozomen, Socrates, or anyone else successfully lived up to their ideals; this 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 *Concerning the Synods* some seventy years earlier, the *Proceedings of the Council of Ephesus* (431) were constructed to make a point. The *acta* from July 22, 431 appear to supplement those from a 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.¹⁹

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 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."²⁰ In the proceedings from June 22, 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 Creed must be read, and the Creed itself rather drops out of view."²¹ The Nicene Creed itself was intended as a distillate of scripture, as a guide which dealt with the problem of scripture's underdetermined nature. After 100 years, however, the creed had become so central to theological disputation that a new council was convened to deal with its own underdetermined nature. "The simulacrum is true."²²

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 the aggregation of various, sometimes competing interpretive voices. This movement has been described variously as "patristic citation"²³ or "patristic retractation."²⁴ The change defines the fundamental shift in Orthodox theological

¹⁹ 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 witnesses of the orthodox past but also the 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 still breathing.

²⁰ Smith, *The Idea of Nicaea in the Early Church Councils, AD 431–451*, 54.

²¹ Ibid., 65. ²² Baudrillard, *Simulacrum and Simulation*, 1.

²³ Rebillard, "A New Style of Argument." Rebillard localizes the shift to the period of 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.

²⁴ Vessey, "The Forging of Orthodoxy."

scholarship after the Council of Nicaea, and especially in the Theodosian empire. But the move to “patristic retraction” is not merely a modern scholarly interpretation: late ancient scholars also noticed that book forms, and forms of argumentation, underwent a revolution in the years after the Council of Nicaea. Returning to Vincent’s *Commonitorium* with which this chapter started, we find a Theodosian scholar struggling with the change in citational forms and the relationship between a new, Theodosian scholastic methodology producing new theological truths 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?²⁵ But such 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*).²⁶

Here Vincent impresses upon his reader that the methods of scholarly disputation may change as theologians polish the interpretive lens to reveal new, deeper truths, but that 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 Nicaea and Sirmium in hopes that he would have their support at “councils to come (*futuri synodi*),” the need for which was inevitable.²⁷

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 invariable, 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

²⁵ As discussed at length in Chapter 2, one such hateful person is Tertullian.

²⁶ Vincent of Lérins, *Commonitorium* 22.

²⁷ Hilary of Poitiers, *Concerning the Synods* 8. Text PL 10.486A.

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, was an innovator in the movement to patristic rather than scriptural citation, and to aggregation as a fundamental tool. By the 430s, however, this ideology of knowledge production could be read from just about any randomly selected product of scholarship. 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 century. Or, put differently: when Christians came into a ruling elite for the first time, Christian book culture became Roman book culture.

Ambrose considered himself a poor man's Cicero. While reading the gospel, the holy spirit confirmed to Ambrose that speaking of "duties" should not be the sole purview of philosophers (1.25). His work *On Duties* (*De officiis*) comprises the patrimony of Traditionalist and Christian learning placed within a Ciceronian literary frame, in order to offer a new scholastic production capable of superseding the classical treatise. Philosophers, he explains, devised a method of deciding between two things – those which are honorable and those which are beneficial – but Christians should not countenance an action unless it satisfies both criteria.²⁸ Ambrose reveals the reason for his digression only thereafter: his discourse deals explicitly with the manner in which philosophers weigh the moral virtue of actions, but in truth he speaks proleptically about a proper Christian relationship with the classical tradition of which philosophers are a part – and, importantly, the value of Ambrose's own book *On Duties* standing in the gap. "From now on, those who choose not to read the works of these people will be able to read ours if they so wish – those who are looking not for ornate language or verbal artistry but for the simple grace of things as they really are" (1.29). Here Ambrose argues that his and similar works by Christians replace the classical tradition not by expunging them, but by incorporating and distilling them to present a product that is fit for Christian use, placed alongside Christian materials of superseding value, if lesser artistry. This is not a

²⁸ Ambrose, *De officiis* 1.28. He returns to this theme in 2.8. Translations adapted from Davidson.

repudiation of the classical tradition, but neither is it an embrace.²⁹ Rather, Ambrose argues that his and similar works collect the best of the tradition, doing the work of scholarly aggregation that is expected of him and producing a manual of practice so that readers have no need to consult those old books. He does not seem to think that this point needs belaboring, however – his methodological statement is dropped into the narrative of book one, after which he returns to a discussion of Panaetius, Aristotle, Pythagoras, and their relationship with the teachings of the biblical king David. *On Duties* presents an early example, from the late 380s, of a framework for scholastic production that became quite common in the Theodosian Age, which we see present from Macrobius to Servius to Martianus Capella, as detailed later.³⁰ All of these authors purposefully invoke a classical style, topic, or even particular work as a container for the aggregation of a patrimony, and for the creation of a resource of superseding – and universal – value.

AGGREGATION BEYOND THEOLOGY

Christian theologians were not the only scholars who saw aggregation as central to accurate knowledge of the world. In fact, we see the extraordinary interimplication of scholastic domains in the Theodosian Age by looking at the way that aggregation underlies scholastic productions across the ideological spectrum. A scholarly method that gave aggregation pride of place is visible everywhere from legal compilations to miscellanies during the Theodosian Age.

I want to be perfectly clear: I am not claiming that any of these methods are fundamentally new. Rather, my claim is that aggregation, distillation, and promulgation took a central position in scholarship during the Theodosian Age, and the centrality of that position is novel. These methods became the scholastic *lingua franca* – the most available and widely used tools for answering questions of knowledge production and governance. This does not mean that everyone, everywhere, in all domains used them exclusively. Of course, there are polemicists from the period who did not use the methods, and some Christian disputation did not involve these methods, either. I do not argue that there are no detractors from the method: later I detail a number of them. Nor is my

²⁹ Ambrose's relationship with the classical philosophical tradition is well covered by Pastorino, "La filosofia antica in sant' Ambrogio."

³⁰ The date is proposed by Davidson, *Ambrose: De Officiis*, 3–5.

argument that the theory presented here can neatly explain every bit of Theodosian scholastic production. What I describe here is a trend, visible across the ideological spectrum and in different scholastic domains, that appeared in a wide variety of sources at about the same time. My explanation for this trend is that a set of scholarly practices contrived for theological disputation became generalized and central during the late fourth through the mid-fifth century as a result of Nicene Christian dominance. Other explanations may be possible, and I encourage other proposals be made. The sheer magnitude of the change in scholarly method across disciplines in this moment demands explanation. This book offers one.

I begin my discussion of the particularly Theodosian nature of aggregation outside of theological scholarship with Macrobius's *Saturnalia*. It is reasonably certain that Macrobius himself was a Christian, or at least that he was not an outspoken Traditionalist in the vein of his text's principle characters: Praetextatus, Symmachus, and Flavianus.³¹ Nevertheless, he worked in the "secular" domain of Miscellany, a genre with an august history, and was keenly interested in what Alan Cameron has called "*pre-Crisis* paganism . . . more the paganism of Vergil than the paganism of Symmachus and Praetextatus."³² In this sense he presents an interesting case of an apparent Christian explicitly using a method developed for Christian theological disputation in a nontheological scholarly domain, and with the aim of exploring themes of a long-lost Traditionalist past.

Macrobius composed his work of staggering antiquarian learning sometime in the 430s, reflecting a dramatic setting in the 380s.³³ But his

³¹ While it was once possible to argue that the Macrobius in question was active around 400, and thus part of the pagan circle of which he wrote, the discovery of a fragmentary inscription bearing the name of Macrobius's son, Macrobius Plotinus Eustathius, prefect of Rome 461/465, puts to rest any possibility that his literary floruit was significantly before 430. *CIL* 6.8.3 no. 41394. See also Alan Cameron's pioneering article, "The Date and Identity of Macrobius."

³² Cameron, *Last Pagans*, 258.

³³ Alan Cameron has suggested a dramatic date of 382 CE. *Last Pagans*, 258. That the text was not written in 382 is at least vouchsafed by its demonstrable knowledge of the Symmachus's letters, which weren't published until after 403 CE. 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 both Gellius and

text does not stand alone: its exemplar, and in many instances its direct source, is Aulus Gellius's *Attic Nights*. Gellius pioneered the form of Roman miscellany during the Antonine dynasty, and some 200 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* reveals 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 later, the reason that each scholar took up his task could not be more precisely at odds. Leontius of Jerusalem 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."³⁴

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. The content of the 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 they "might come together in a coherent, organic whole" (Pref.3). Macrobius's 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 (*ex omnibus colligamus unde unum fiat*), 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 (*omnia quibus est adiutus abscondat, ipsum tantum ostendat quod effecit*) . . . 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

Macrobius. For a critique of Momigliano's universal category, as well as an argument for the value of an explicitly comparative method when studying late ancient antiquarianism, see MacRae, "Late Antiquity and the Antiquarian."

³⁴ Macrobius, *Saturnalia* Pref.5. Text and translation LCL 510.

different disciplines, many lessons, examples drawn from many periods, but brought together into a harmonious whole (*in unum conspirata*). (Pref. 8–10)

Macrobius uses poetic and playful language to express the same sentiment over and over 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. The metaphor of diverse instruments which produce a single sound is not Macrobius's own: it appears throughout classical literature, from Pseudo-Aristotle's *On the Cosmos* (396b), to Plutarch's *Moralia* (96e), and even in Philo's *Life of Moses* (2.256–257), as noted by Robert Kaster.³⁵ Even in his choice of learned metaphors Macrobius innovates within tradition, as none of his forebears use the analogy in the same way: Pseudo-Aristotle invokes it to explain the consonance of the universe, even though it includes materials of different types, Plutarch speaks on the nature of friendship, and Philo the nature of worship. Macrobius uses a traditional metaphor to explain the nature of his own work, and what his son, as an idealized reader, is intended to hear amid the cacophony. All of Macrobius's extracts combine to express “a harmony” and “a single flavor (*unius saporis*)” with a single underlying truth.³⁶

Nevertheless, Macrobius was no Heroditean. He hoped that as a result of his aggregative method his reader could find, eventually, the *unius saporis* of truth which underlies them all, but both in his explicit methodological statement and in source critical analysis Macrobius comes across as a rather faithful copyist of his sources. As argued at length by Alan Cameron, “Macrobius himself never lays claim to *any* originality, and where we are in a position to check, he did indeed follow single sources closely for long stretches. Notoriously, he follows Gellius so closely that in many places the Macrobian text has the authority of a manuscript of Gellius.”³⁷ The question has been asked before, whether speeches in Macrobius's narrative reflect the opinions of the historical

³⁵ LCL 510, 7n4.

³⁶ Macrobius, *Saturnalia* Pref. 6. The question of Macrobius's Christianity is open, though Robert Kaster makes a strong case that Macrobius was at least writing with a Christian audience in mind. LCL 510, xxi–xxii. If it is true that he was Pretorian Prefect in 430, then his Nicene Christian allegiance is all but certain (LCL 510, 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.

³⁷ Cameron, *Last Pagans*, 267.

character who speaks in the text, that of Macrobius's source, or Macrobius's own personal view.³⁸ The debate would be rendered less fraught if the broader intellectual culture of the Theodosian Age were taken into account, including both theological and secular works. Cameron wouldn't have had to go to such great lengths to show, rightly, that Macrobius did not necessarily share the opinion of his sources.³⁹ When placed next to Jerome, Ambrose, Hilary, or even the *Theodosian Code*, as argued later, it becomes apparent that the contemporary scholastic norm was to include material with which you disagreed, or to which you did not at least wholly assent – not 'the norm' as in normal, but positively normative.

Comparison with Aulus Gellius's *Attic Nights* magnifies Macrobius's novel aims in assuming Gellius's format and rewriting his preface, and clarifies the conceptual overlap between *Saturnalia* 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 contrast more starkly. Unlike Macrobius's miscellany, which aims to access ultimate truth through carefully chosen 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."⁴⁰ As Joseph Howley argues, "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."⁴¹

Macrobius used *Attic Nights* as a source, and he goes to great lengths to mimic Gellius's preface.⁴² But Macrobius repudiates the other aims of Gellius's work – including, most importantly, his rationale for

³⁸ Liebeschuetz presents an overview of the debate in "The Significance of the speech of Praetextatus" 197–200.

³⁹ Cameron, *Last Pagans*, 266–268.

⁴⁰ Gellius, *Attic Nights* Pref.17–18. Translations are from LCL 195.

⁴¹ Howley, *Aulus Gellius and Roman Reading Culture: Text, Presence, and Imperial Knowledge in the Noctes Atticae*, 9.

⁴² For instance, both stress that their writing is sub-par, and not favorably comparable with those excerpted. Compare *Attic Nights* Pref.10 and 16 with *Saturnalia* Pref.11–12. Kaster notes Macrobius's explicit invocation of Gellius's preface in LCL 510, 9n5.

undertaking such a production in the first place. Both authors produced a miscellany by compiling diverse material from a variety of sources, but only the Theodosian scholar considered the format to be conducive to an aim beyond the virtues of miscellany itself. Macrobius's aim is truth, made visible through the scholarly process of aggregation, distillation, and systematic presentation, and he rewrote Gellius's preface to stress these aims. On the other hand, Gellius 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."⁴³

Macrobius's contemporary Martianus Capella wrote his nine books, *The Marriage of Philology and Mercury*, in the early fifth century, and quickly gained notoriety as an encyclopedist.⁴⁴ He was notable as a Neoplatonist and his book is, in the estimation of Alan Cameron, "a treasure house of pagan lore" placed within the literary frame of a Greco-Roman novel, in the vein of works by Petronius or Apuleius.⁴⁵ Martianus's is an aggregative work of diverse learning placed within the narrative frame of a wedding feast. His first two books concern attraction (broadly conceived) and detail the narrative by which Apollo played matchmaker between Mercury and Philology, the latter of whom was adopted as one of the gods. During the nuptial celebration Apollo brings forward each of the seven liberal arts, and Martianus devotes a book to each: Grammar, Dialectic, Rhetoric, Geometry, Arithmetic, Astronomy, and Harmony. By way of conclusion, Martianus calls his nine books a *miscillo*, and claims the true author, Satire, "has intermixed (*immiscuit*)"

⁴³ Gellius, *Attic Nights* Pref.13. A similar comparison might be made with Solinus's third-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*" – "the leavening agent of inquiry" (Pref.1.2). 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 "*opinionones 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."

⁴⁴ Martianus was massively influential in the Middle Ages, coming down to us in a mind-boggling 241 manuscripts, even warranting mention in Chaucer's *Canterbury Tales*. Early references include Cassiodorus, Gregory of Tours, and Fulgentius. Rita Copeland and Ineke Sluiter have produced a useful overview in *Medieval Grammar and Rhetoric: Language Arts and Literary Theory, AD 300–1475, 148–151*.

⁴⁵ Cameron, "Martianus and His First Editor," 327.

materials of all sorts. “Our garrulous Satire has heaped learned doctrines upon unlearned, and crammed sacred matters into secular.”⁴⁶

In the words of Beatrice Bakhouché, the work “borrows from every previous literary genre. The grandiose meets the comic.”⁴⁷ It is indeed true that Martianus’s novel mixes tales together, but the parallels that Bakhouché suggests in attempting to understand the Martianus’s generic frame – Petronius and Apuleius, above all – do not include the seven books of technical learning explaining, *inter alia*, which words in Latin have an A as an ending in the nominative or the number of miles between the Arsia and Drina rivers, to choose two examples (quite literally) at random. Martianus’s work is fundamentally aggregative, in distinction from earlier examples of the novelistic genre. If Martianus had worked solely within a traditional genre, is hard to imagine that such an apology as he offers at the end of his nine books would be necessary.

There is another difference between the generic features of *The Marriage* and the apparent aim of other novels, such as those of Petronius and Apuleius which have most often been used to contextualize the work: Martianus presents his own work as more than either a satire or an encyclopedia – and, as Jason König and Greg Woolf rightly note, “[e]ncyclopaedism was never a genre within classical antiquity” to begin with.⁴⁸ Martianus’s work is a true “encyclopedia,” invoking explicitly the *enkuklios paideia* (grammar, dialectic, rhetoric, geometry, arithmetic, astronomy, and music), placing him in an intellectual tradition boasting the likes of Cato, Varro, and Celsus,⁴⁹ and suggesting that his aim, again like those of his forebears and similar to Macrobius’s production, was something like universal knowledge – an aim that can be squarely situated in the intellectual culture of the Theodosian moment, but which is found nowhere in Martianus’s preceding stylistic exemplars. And, like other writers of the Theodosian Age, he writes an aggregative work that is precisely *not* a manual of practice. Like his contemporary Macrobius and Gellius before, Martianus wrote a book of aggregative learning for the benefit of his son, who stands in for a general reader. His fatherly message, again in the words of Bakhouché, is this: “The liberal arts make sense only if they allow us to account for the world, to render the cosmos

⁴⁶ Martianus Capella, *The Marriage of Philology and Mercury*, 997. Translation Stahl, Johnson, and Burge.

⁴⁷ Bakhouché, “La subversion du genre romanesque dans le *De nuptiis Philologiae et Mercurii* de Martianus Capella,” 377.

⁴⁸ König and Woolf, “Encyclopaedism in the Roman Empire,” 23.

⁴⁹ Fowler, “Encyclopedias: Definitions and Theoretical Problems.”

intelligible.”⁵⁰ Exploration of the seven subjects in this aggregative format is the first step toward universal and ultimately divine knowledge.⁵¹ Here again we see a Theodosian author taking up the framework of an august genre and reshaping it, inserting heaps of antiquarian learning and, ultimately, appropriating an old format with the aim of universality and knowledge of the divine. In this sense, the relationship between Martianus and the work of Apuleius and Petronius is similar to the relationship between Macrobius and his exemplar in Aulus Gellius: both attended to traditional *topoi* of the genre in which they work, while adding new features rooted in encyclopedic learning and explicitly claiming to create a resource capable of leading the discerning reader to universal truth. Further, both Macrobius and Martianus offer a rationale for their innovation within a literary tradition – apologies for a perhaps startling format which diverged from classical examples of the genre, but which hewed instead to the methodological trend of their day.

Aggregation, distillation, and systematic presentation are the central aim of another great scholastic production by Macrobius and Martianus’s contemporaries. The compilers of the *Theodosian Code*, however, had even loftier aims. 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 of legal scholarship from the time of Constantine’s conversion through their present day.⁵² Unlike Macrobius, their aim was not just truth, nor did they intend merely to create 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 to life.”

In an Appendix I discuss 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

⁵⁰ Bakhouche, “La subversion du genre,” 380. ⁵¹ Ibid.

⁵² One is hard pressed to think of another reason, institutional or logical, that the aggregation of constitutions should begin only in 312 CE.

a universal statement. The first step was to use the method of aggregation to create a resource for scholars, or in its words “more industrious people (*diligentiores*).” The second step was to distill that scholarly resource into a “guide to 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 were composed for more industrious people, to whose scholarly efforts (*scholasticae intentioni*) 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*).⁵³

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 aims of the text require a different method. Namely, given that the text is intended as a legal repository for “more industrious people” engaged in scholarly work (*scholasticae intentioni*), the aim of creating a scholastic resource dictates the aggregation of both valid and invalidated laws. It is perhaps worth dwelling on this fact for just a moment. If the *Theodosian Code* were meant simply as a manual of legal practice or a resource for working jurists, then there would be little reason to include invalidated laws. 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.”⁵⁴ The technical nature of the document defined expectations regarding its form because it claims to be intended as a resource for scholars. The document itself was novel – never before had a Roman law code been created as a universally valid statement of legal praxis, as I discuss in the Appendix – and the method prescribed, by law, to create this novel resource was the same method that contemporary scholars used

⁵³ *CTh* I.1.5. Translations of *CTh* follow Pharr. 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: The Story behind the Translation of the Theodosian Code in Mid-century America.”

⁵⁴ Turpin, “The Purpose of Roman Law Codes,” 620.

in other disciplines. Scholars across the disciplinary spectrum expected that a technical resource or scholastic production 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.⁵⁵

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 to life (*magisterium vitae*)."⁵⁶ It is not obvious that a legal codification could possibly serve such a noble goal; it is, at least, a strange choice of genre. 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."⁵⁶ As I explore in the Appendix, the term *magisterium vitae* only makes sense if the term "magisterium" is understood with its peculiarly Christian meaning, as a moral exemplar in the guise of the Christian saints. In light of this 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."⁵⁷ Much more proximate is the work of Macrobius or Socrates, who saw in aggregation the possibility of universal 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 become de rigueur throughout the landscape of scholarly production in the eighty years since. The first step, for both

⁵⁵ 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 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.

⁵⁶ Humfress, "Ordering Divine Knowledge," 163. ⁵⁷ Gellius, *Attic Nights* Pref.13.

Athanasius and the *Theodosian Code*, is aggregation of previous scholarly material, regardless of its validity or authority. It is this scholastic operation that Macrobius explicitly claims to be performing in his *Saturnalia*. The second step is distillation of that material into a work of 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” had “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 (1.1.5). The content and material of each of these projects is unique, but their aims and methods proceed from a coherent set of scholastic practices.

It was only the Theodosian Age when this structure of knowledge, born of theological controversy, first found its way into secular domains. The example of Oribasius helps to make this clear. Oribasius was a contemporary of Athanasius, and 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 Athanasius’s: bringing together scholastic patrimony within his own discipline of medicine. Unlike Martianus Capella, Macrobius, and the compilers of the *Theodosian Code*, however, Oribasius chose a method wholly different from that of Athanasius. His *Medical Compilations* compiles a scholastic patrimony, but it is not aggregative in a full sense. That is, his *reason* for bringing together patrimony is radically different from that of Theodosian Age scholars.

In the introduction to his *Medical Compilations*, Oribasius relates that the emperor Julian instructed him to compile a corpus of epitomes from the 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,”⁵⁸ and he claims to be “zealously determined to carry out this task [of compilation], as far as [he is] able,” 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” (1.pref.2.). 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

⁵⁸ Oribasius, *Medical Compilations* 1.p.2. Translations adapted from Grant. Text CMG 6.1.1

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 earlier, and Oribasius's method resembles that used by the compilers of another imperially ordered scholarly production: the *Theodosian Code*.⁵⁹ But Oribasius's aim in creating a compilation could not diverge more radically. The doctor intended to create a scholarly resource but he had no expectation that a good argument, or worthwhile scholarly knowledge, required bringing valid and invalid sources together. (Such a method would be no use to the invalid, in search of a cure.) He continues: "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*" (1.pref.3). For Oribasius, scholarship is a work of curation more than a work of compilation. His stated intent is to create a resource for other doctors that separates the wheat from the chaff. We see here no evidence that the aggregation expected from Christian theological arguments in the mid-fourth century had found its way into the methodological presumptions of a medical scholar writing from the imperial court of the last "pagan" emperor. As I argued earlier, this separation did not last long.

TRADITIONALIST REJECTION

Three texts from the Theodosian Age appear to reject aggregation as a scholarly method: the *Res Gestae* of Ammianus Marcellinus, the *Historia Augusta*, and Proclus's *Ten Questions Concerning Providence*.⁶⁰ Each author's discussion of aggregation as a method is fraught, and none offer such an unimpeachable statement of rejection as one would hope. My contention, offered with due reservation, is that each of these authors seems to know of aggregation as a scholarly method, and that each rejects it in their own way. My argument is that we can see the

⁵⁹ Such as "ὥς οἷός τέ εἰμι" in Oribasius 1.pref.2., See also Sozomen 1.15–16 "ὥς οἷόν τε ἦν."

⁶⁰ 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 John, *Kaiserbiographie und Senatsaristokratie: Untersuchungen zur Datierung und sozialen Herkunft der Historia Augusta*, 46) that the production as it stands today, and likely in original composition, must date to shortly after 395 CE, though see Marco Cristini's recent suggestion of a slightly later *terminus post quem* in "Oriental Imperium: A Note on the Dating of the *Historia Augusta*."

prevalence of aggregation, distillation, and promulgation as a scholastic *linga franca* through pointed rejections of the methods from both chronological ends of the Theodosian Age. By militating against aggregation, each of these sources underscore the prevalence of a widespread scholarly method requiring that raw material remain part of the final scholarly product.

Ammianus completed his administrative and political history of the Roman empire in the early 390s, initially intending to write only twenty-five books covering the period from the accession of Nerva in 96 CE to the death of Valens in 378, continuing on where Tacitus's own *Histories* left off and in a similar style. 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."⁶¹ These "unreasonable critics (*intempestivos*)," in Ammianus's estimation:

[C]ry 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 matters, which are not in accordance with the principles of history (*praeceptis historiae dissonantia*). (26.1.1)

The historian's exasperation at what he is being asked to do is palpable. There are two ways to read Ammianus's concern about criticisms that he is loath to incur by leaving out what he deems to be trivial details.⁶² Ronald Syme and Guy Sabbah each offer a traditional understanding, reading Ammianus's statement at the beginning of book 26 as nothing more than a rejection of the idea that minor details are anything more than trivialities, while his own aim was to illuminate the character and actions of major players in the imperial orbit.⁶³ Here, Ammianus defends the Tacitean historiographical method's factual remit, rejecting biography – the writing of "Lives" – which had long been a viable vehicle for the writing of imperial history, invoked most famously by Suetonius and more recently by

⁶¹ Ammianus Marcellinus, *Res Gestae* 26.1.1. Translation LCL 315.

⁶² The difficulty of extracting a precise historical methodology from Ammianus's work is detailed in Sabbah, *La méthode d'Ammien Marcellin: recherches sur la construction du discours historique dans les Res Gestae*, 11–13.

⁶³ Syme, *Ammianus and the Historia Augusta*, 95; Sabah, *La méthode d'Ammien Marcellin*, 25.

Eusebius and the author(s) of the *Historia Augusta*. Ammianus complains that his critics require him to record heaps of details, which “are not in accordance with the principles of history (*praeceptis historiae*); for [history] is wont to detail the highlights of events (*discurrere per negotiorum celsitudines assuetae*)” (26.1). A passage in the *Historia Augusta*’s *Life of Opilius Macrinus* makes a similar point:

Nonetheless, we shall bring forward what we have discovered in various historical works – and they shall be facts that are worthy to be related (*ea quidem quae memoratu digna erunt*). 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.⁶⁴

Read together, Ammianus and the *Life of Opilius Macrinus* simply make statements about the proper writing of history, against their predecessors within the genre of historiography. But such a reading of Ammianus Marcellinus fails to account for the historian’s own explanation for his methodological choices. Suetonius and other historical biographers may be implied in Ammianus’s critique – I am persuaded that Ammianus considered himself to be a continuator of the Tacitean project, and therefore sticks to Tacitean methodology, more or less. But this is not what Ammianus *says*. Rather, he complains that “unreasonable critics (*intempestivos*)” *in his own day* will inevitably accuse him of failing to write a proper history precisely by virtue of sticking to an older tradition of historiography, which focuses on “the highlights of events.” Ammianus’s method is traditional, but his exasperation is timely. The intellectual context which makes sense of his concern, that people would criticize him for failing to include what he deems “trivial details,” is the intellectual context of the Theodosian Age in which aggregation was the most immediately available and widely used tool for scholastic productions, and especially historical accounts. It would be irresponsible to read Ammianus as reacting solely to trends within historiography without attending to the wider intellectual and scholastic climate in which he worked – the same failure that causes scholars of Roman law to trace every innovation in legal ideology to a wholly internal process of juristic evolution. Ammianus lived in a society and interacted with scholars working in other disciplines. When placed in the intellectual climate of the Theodosian Age of which he was but a small part, his reaction against aggregative methodologies appears in a new light. That he complains

⁶⁴ *Historia Augusta, Life of Macrinus* 1.1. Text and translations adapted from LCL 140.

about an intellectual culture which “cries out as if wronged” when he fails to aggregate is only further evidence that what he responds to is a contemporary scholastic trend. It may be easier to ignore this fact, and one can read Ammianus profitably without placing him beside contemporaneous scholars involved in different fields. But doing so renders his text less rich, and outbursts like the methodological winging at the beginning of book 26 less rational.

An obsession with aggregation, in Ammianus’s estimation, is an affectation of the *inscitia vulgari*: the ignorance of the masses, who *require* such trivial details (26.2). On the other hand, “Julius Capitolinus,” the putative author of the *Life of Opilius Macrinus* collected in the *Historia Augusta*, has a specific polemical target in mind. “Capitolinus” argues that the form of history writing that 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*:

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 (*mores*), of course, that we really want to know, but only to a certain extent, that from this the rest may be inferred. (*Life of Macrinus* 1.3–5)

Again, in his preface the author of the *Life of Opilius Macrinus* invokes a debate familiar to anyone working within the ancient discipline of history. The author seems to suggest that his opponent, Junius Cordus, styled himself as a latter-day Plutarch. In his famous introduction to the *Life of Alexander*, Plutarch claims precisely to focus on small moments, seemingly trivial details, because he aims to understand the character (ἦθος) of his subjects and “a slight thing like a phrase or a jest often makes a greater revelation of character than battles where thousands fall.”⁶⁵ The issue, for Julius Capitolinus, is that a biographer should include only such trivial details when they shed light on the *mores* – character – of the subject, as Plutarch did. Cordus’s error, according to Capitolinus, was searching out trivial details in the hope of being able to illuminate the character of his subjects therewith, but failing to do so. Cordus has created a dossier of information that is beside the point.

⁶⁵ Plutarch, *Life of Alexander*, 1.

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 burden their own literary inventories with useless knick-knacks. It is certain that Ammianus’s attack on the ignorant masses and Capitolinus’s attack on Cordus are expressed within the bounds of long-held scholarly discourse about what proper historiography comprises. 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 during the period when each of these texts were written just such a format was in vogue in the circles of elite Roman historiographers suggests that Ammianus and Capitolinus were reacting against a wider culture in which the expectation of aggregation was a central facet of the dominant scholastic method. It was perhaps not lost on outspoken Traditionalists, either, that the trend was embraced widely by the most visible and vitriolic sect of Christians.

Further, the *Historia Augusta* claims to be a composite work, and does not witness a singular historiographical method. A very different method is evidenced in *Life of the Deified Aurelian*. The preface to this biography discusses precisely the type of aggregation to which a wide variety of Theodosian Age scholars would happily 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 (*additis quae ad vitam pertinent*). All these things you may learn in your zeal for research from the linen books, for he gave instructions that in these all that he did each day should be written down. I will arrange, moreover, that the Ulpian Library 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. I hope that you 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 Ulpian Library will furnish you whenever you desire. (*Life of Aurelian* 1.6–10)

For Flavius Vopiscus, the putative author of this *Life of the Deified Aurelian*, the validity of his “little book” was based on its status as a distillation of a great mass of material. The authority of the distillate, furthermore, did not depend on blind acceptance of the author’s account, 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 Vopiscus felt compelled to stress this point, and that his method was consonant with the dominant scholastic framework of his age.

In his study of prefaces in the *Historia Augusta*, Daniël den Hengst concluded that “the dominant impression after reading through the [*Historia Augusta*] from beginning to end is one of bewildering variety.”⁶⁶ Not only does the text comprise an eclectic mix of styles and details, but it claims to be the work of six authors, each with his own methodology. Within the *Historia Augusta* as a whole we find some historians, like Vopiscus, who claim a quintessentially Theodosian form of aggregation as central to their work, placed side by side with the work of others such as Capitolinus, who reject such an operation out of hand – apparently with specific polemical targets in view. Whether the *Historia Augusta* is the work of one author or six, with one underlying generative framework 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 these literary products of the 390s we see reflected exactly an elite discussion about, and perhaps embrace of, the scholastic method of aggregation and distillation that is positively endorsed by the likes of Hilary, Jerome, and the compilers of the *Theodosian Code*. The *Historia Augusta* itself is aggregative. It is 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.”⁶⁷ It is interesting, in other words, that explicit *rejection* of aggregation as a valid scholarly method is most often found in the writing of Roman Traditionalists.

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 for copious commentaries on Plato, but it is his *Ten Questions Concerning Providence* where he betrays most

⁶⁶ den Hengst, *The Prefaces in the Historia Augusta*, 158.

⁶⁷ Arnaldo Momigliano, “Popular Religious Beliefs and the Late Roman Historians,” 7.

clearly the wider 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:

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 (*sive igitur dicta a prioribus, sive non, pertractemus, differentes nihil*). For as long as we say what corresponds to our own view, we may seem to say and write these views as our own.⁶⁸

Proclus appears to respond to an expectation of aggregation – precisely that he *should* “discuss what has been said by previous thinkers” on the topic or providence as a part of his own argument, and his own search for philosophical truth. As in the cases we have already covered, there are two ways to read this comment by Proclus. In their commentary on this passage, Jan Opsomer and Carlos Steel suggest that here he offers nothing more than “a kind of apology for having copied [Plutarch’s] text almost shamelessly.”⁶⁹ 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” *writ large*. A more proximate explanation for the comment is that he is responding to typical scholarly practice at the time. Like the *Historia Augusta*, we may reasonably read this passage as a response to typical practice of the dominant 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, as he continues, “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, scholars from across the disciplinary spectrum engaged with a set of scholastic practices which were dominant and visible across the ideological and disciplinary spectrum and, importantly, which included an expectation of aggregation. Some scholars

⁶⁸ 1(76).17–23. Medieval translation into Latin by William of Moerbeke (Gulielmus de Moerbeke), modern edition Helmut Boese, translation Opsomer and Steel.

⁶⁹ Opsomer and Steel, *Proclus: Ten Questions Concerning Providence*, 50.

embraced these new practices while others rejected them. Even in their apparent rejection, Proclus and Ammianus Marcellinus speak to the expectation of aggregation that permeated their scholarly environment, while the *Historia Augusta* embraces the method as a whole, even while one of its “authors” dissents.

POST-THEODOSIAN COLLECTION, OR THE SHIFT TO FLORILEGIA

While the centrality of aggregation as a scholastic tool continued intact through the extent of the Theodosian Age, the post-Theodosian West saw yet another shift: this time away from the notionally dispassionate aggregation of competing voices to the collection of sources with explicit polemical and ideological aims. To reiterate: aggregative scholastic productions are never truly nonpolemical. Every source that I’ve engaged has subtle and overt polemical aims which shape the selection and presentation of sources. Aggregation is never dispassionate in actuality – how could it be? Nevertheless, in sources where aggregation is discussed as a scholarly practice by Theodosian writers, overwhelmingly they *claim* that their method comprises dispassionate selection; the good with the bad, the orthodox with the heretical, good law alongside that which it superseded. The scholarly ideal was that reliable knowledge could be produced through the unbiased collection of sources on all sides of an intellectual debate, followed by their distillation.

As a scholarly ideal, dispassionate aggregation did not last. This distinction, between aggregation as a scholastic practice 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 such as Ambrose or Macrobius claims of universality necessarily involved the 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 which alone suggests that his opponents might have been correct 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, Theodosian scholars aggregating scholastic patrimony produced texts that look like later florilegia materially, with radically divergent stated intentions.

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 Eduard Schwartz dubbed “curated collections” began with the so-called *Collectio Novariensis de re Eutychie*.⁷⁰ 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 book.⁷¹ Other examples of the trend include Leo’s own collection of letters known now as the *Leonis Papae I epistularum collectiones*,⁷² and the more famous *Collectio Avellana*, a lacunose mid-sixth-century collection of imperial and ecclesiastical letters and documents ranging from the year 368 to 553 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.⁷³ The dossier that Athanasius proposed, produced, and appended to his *Concerning the Decrees*, for instance, 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. The Theodosian collections were notionally dispassionate.

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 obscured by purposeful

⁷⁰ Schwartz’s German phrase, “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.”

⁷¹ 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 Weischer, *Querellos*, vols. 1, 2, 3.1–3.

⁷² ACO 2.4. ⁷³ Viezure, “*Collectio Avellana* and the Unspoken Ostrogoths,” 94.

failure to aggregate conflicting materials.⁷⁴ 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!” (1.1.15.8–1.1.16.1). 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” (1.1.16.2–4). The shift to curated collections was a lamentable trend, according to Sozomen. And again, it was a trend with a 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 from scriptural interpretation to a focus on credal 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 earlier, 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 credal interpretation itself. In a supplement to the *Proceedings of the Council of Ephesus* condemning Nestorius, the Nicene Creed is presented and followed not by general theological disputation, as in Athanasius, but by *credal* 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.⁷⁵

⁷⁴ Sozomen, *Ecclesiastical History* 1.1.15.2–3. Text GCS 50.

⁷⁵ Price, “Conciliar Theology,” 4.

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 with the holy spirit by the holy fathers assembled in Nicaea.”⁷⁶

CONCLUSION

The assumption of aggregation, distillation, and promulgation as central scholarly tools 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 scholastic mode, inflected by Christian theological debates, is visible from the works of Athanasius to those of Proclus. Even when scholars reject the basic methodology of aggregation and distillation, they witness its presence as a form, and perhaps the dominant form, of scholastic production.

Interconnections between disciplines are visible in every facet and corner of the great Theodosian Age scholastic productions: from theology to law to historiography, medicine, and miscellany. One glance at the pioneering work of Raban von Haehling detailing the “[r]eligious 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.⁷⁷ Even given the rightful criticisms of Barnes and Salzman 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 1).⁷⁸

Armed with a set of scholastic practices whose development I treated in Chapter 3, Nicene Christians came to power during the Theodosian Age, and brought their peculiar structure of knowledge with them. One’s approach to proper knowledge production may be context specific to a certain extent, but in broad strokes it remains intact as individuals code switch between domains of knowledge and modes of interaction – already

⁷⁶ ACO 1.1.7.77.20–22 (p. 105).

⁷⁷ Von Haehling, *Die Religionszugehörigkeit der hohen Amtsträger*.

⁷⁸ Barnes, “Statistics and the Conversion of the Roman Aristocracy”; Salzman, “How the West Was Won.”

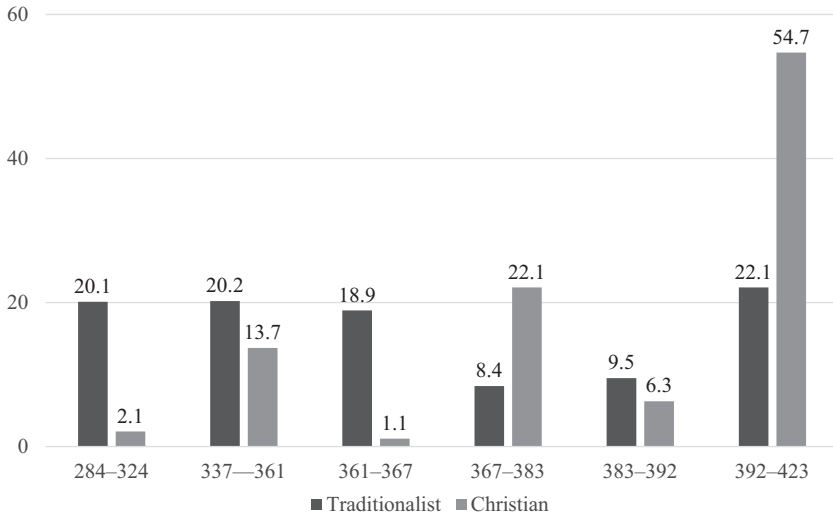


FIGURE 1. Religious identification of Western senate high-office holders at time of highest office. Chart data from Salzman, *The Making of a Christian Aristocracy*, 228.

forty years ago, Ramsay MacMullen demonstrated that by the late fourth century a significant convergence in religious vocabulary *and* ideology had taken place between senatorial Christians such as Ambrose and Traditionalists such as Symmachus.⁷⁹ As Nicene Christianity proliferated through the ranks of the elite, we see a simultaneous shift in the way that arguments are made within domains of knowledge production that do no obvious theological work. I offer this analysis as a novel way of tracing what it means for elite Roman society to “become Christian.” Macrobius was a scholar working in a traditional discipline, and a rather lonely one at that, far removed from the bustle of theological disputation undertaken by broad swathes of his contemporaries. Yet his reformulation of the antiquarian format adopted from Gellius and his redeployment of the format with new intellectual aims points to the new and predominantly Christian scholastic environment in which he lived and to which he spoke. Each of the examples in this chapter could be multiplied, and each speaks to a coherent shift in practice among works of Roman scholarship in the years after Nicene Christians first came to hold significant political power. The widespread assumption of a mode of scholastic production which began as a set of theological practices was not a one-off event, and the

⁷⁹ MacMullen, *Christianizing the Roman Empire*, 77–78.

shift did not occur in the same way in all domains. But a gradual change is a change nevertheless; in fits and starts, the acorn does eventually become an oak tree.

The assumption of aggregation and distillation as central methods in knowledge production led to downstream changes in the way that scholars approached books: what they thought books did, how works of scholarship ought to look, how they were best encountered, and the manner in which readers assessed their contents. These changes were not merely intellectual, confined to discussion in statements of purpose and programmatic methodological musings. We can see the effect of shifting scholarly practices in the pages of 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 order of books is visible beyond the methodological statements and intellectual productions 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 scholarly practices in manuscripts of the Theodosian Age. This project has an epigraph: “New readers of course make new texts, and their new meanings are a function of their new forms.”⁸⁰ Chapter 4 has profiled the new readers; Chapter 5 begins to investigate their new texts.

⁸⁰ Donald F. McKenzie, *Bibliography and the Sociology of Texts*, 29.

PART II

NEW TEXTS

New Bookforms

THE CODE(X)

I began Chapter 4 with the “aesthetic of accumulation” – the scholarly description of Theodosian Age scholastic production as both novel and in some ways peculiar, in which scholarly productions across domains came to be bound up in the “codification craze” in the period when Christians first became a ruling elite. I argued that the choices we see reflected in the scholastic production of the period are not purely or even largely aesthetic predilections, but rather that they signal the proliferation of a set of intellectual practices across diverse domains during the fourth and fifth centuries, namely the creation of aggregative codices with the potential to produce authoritative knowledge or which presented that universal authoritative knowledge itself. This is the sense in which the codes of the Theodosian Age differ from those which precede it and those which follow. Parchment codices had existed since at least the turn of the common era, but they were not “codes” in the sense that the *Theodosian Code* is a code, or the Christian bible is a code, or even the works of Macrobius can be understood as a code in the peculiarly Theodosian sense – as an aggregative work which presents the reader with an opportunity to grasp universal knowledge.

The codes engaged here 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 in contemporary usage it means something akin to “authorization”: the “codified” rules of football, for instance, are not simply those which are recorded in a codex, but those promulgated by the relevant authority and binding on sanctioned games. 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 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." I argue that a confusion between the categories of code, codex, and codification have hamstrung attempts to understand some of the codes of the Theodosian Age, including the *Theodosian Code* and the fourth/fifth-century biblical pandects. This chapter addresses the confusion in preparation for a wider discussion to follow.

From an early period, Christians preferred the codex format for scriptural texts – mostly Greek editions of the Hebrew Bible – and for texts that would later be understood as scripture. The earliest fragment of the *Gospel according to 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 preferred the codex format for some of their texts, they did not invent the format nor were they primarily responsible for popularizing it.² 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*.³ The format appears to be Roman in conception, and its spread through the empire in the second through the fourth century has been proposed as a serviceable index of Romanization.⁴ The parchment codex, and its less prestigious cousin in papyrus, are modeled on an earlier instantiation of the form: they are plastic approximations of the wooden *tabella*, famed in applications ranging from legal promulgations (the so-called *XII Tabulae*) to the ritual inscription of temple boundaries.⁵ 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" and possessed "certain performative, almost magical, powers."⁶ I have written elsewhere about the durability of what Matthew Larsen and I called "generic expectations"; ancient and late

¹ TM 61624, see Nongbri, "The Use and Abuse of P⁵²: Papyrological Pitfalls in the Dating of the Fourth Gospel."

² Bagnall, *Early Christian Books in Egypt*, 70–78; van Haelst, "Les origines du codex," 14.

³ Martial, *Epigrams* 1.2, 14.184, 14.190. (Perhaps also 14.186, 188, 192.)

⁴ Gascou, "Les codices documentaires égyptiens," 75–76; expanded by Bagnall, *Early Christian Books*, 87.

⁵ Martial, *Epigrams* 14.7. See also Roberts, "The Codex," 169.

⁶ Meyer, *Legitimacy and Law in the Roman World: Tabulae in Roman Belief and Practice*, 5–6.

ancient readers considered the codex form to signal certain genre-inflected features of the writings contained.⁷ The “codification craze” of the late fourth century cannot be considered without acknowledgment of the historical table upon which it played out; 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.

In their first three centuries of use, codices were not prestige objects. 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.⁸ By the Theodosian Age, however, the codex had been imbued with new associations. Not only was it the dominant format for all literary writing, but it was a prestige format associated with universal statements of truth that was often used to effectuate them. Christians stand in the gap between the use of the codex format for provisional and para-literary 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 texts such as homilies continued to be copied and circulated in roll format. For instance, we have P. Michigan 18.763, a homily containing significant New Testament quotations that is nevertheless preserved on a roll that was copied between 150 and 250 CE (TM 63857). On the other end of the temporal spectrum we have Princeton Garrett 24, a palimpsested rotulus whose undertext is a *mēnaion* with a Christmas homily dated paleographically to the eighth or ninth century (TM 63857). Throughout this period, Christians preferred the codex format for scriptural materials without any significant counter example, while less authoritative material enjoyed more flexibility when it comes to bookform.⁹

We can trace the Christianization of structures of power by following closely the shifting material expressions of power. When Nicene Christians came to widespread power in the Theodosian Age, armed with a novel set of scholastic practices and a canon of scripture that circulated in codex format as universally true, the peculiar Christian perspective on

⁷ Larsen and Letteney, “Christians and the Codex: Generic Materiality and Early Gospel Traditions.”

⁸ *Ibid.*, 407–410.

⁹ Recently, Geoffrey Smith has offered TM 851632 as an example of a third- or fourth-century New Testament text copied onto the recto of a bookroll. However, as Larsen and I argued in “Christians and the Codex,” 387n6, arguments in support of this conclusion are unsustainable. Smith, “Willoughby Papyrus: A New Fragment of John 1:49–42:1 (P134) and an Unidentified Christian Text.”

the codex format transferred to other universal statements of truth that took the same shape. The Christian practices of scholastic production that I have traced thus far can be followed further, into the physical instantiations of Theodosian Age works. “Code” and “codex” came to mean the same thing during this period; in the words of Martin Wallraff, “the utilization of this term [code(x)] is widely known as a story of great success – it caught on, and it led to an almost breathtaking semantic expansion.”¹⁰ The coalescence of “code” and “codex” into a single signifier is another effect of Christian ascendancy in the Theodosian Age.

CHRISTIANS AND THE CODEX

The “rise” of the codex was a slow process. Data from the Leuven Database of Ancient Books shows a slow debut starting in the late first century CE among extant manuscripts, most of which were found in Egypt. The format saw rapid 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 (Figures 2 and 3).¹¹

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 and presentation copies.

The earliest attested deluxe parchment codices were both created for Constantine: one on his request and another as a gift. The gift was a presentation copy of poems by Optatian.¹² As literature, Optatian’s

¹⁰ Wallraff, *Kodex und Kanon: Das Buch im frühen Christentum*, 26.

¹¹ Charts were created by Yanne Broux on April 18, 2017 with data from the Leuven Database of Ancient Books. Interactive versions are available at www.trismegistos.org/tmcorpusdata/23/ where the raw data can also be downloaded.

¹² The distinction between presentation copies, association copies, and deluxe editions invoked here is covered by Frampton, *Empire of Letters: Writing in Roman Literature and Thought from Lucretius to Ovid*, 113–114. 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 Porphyrius.” A contextualizing discussion of pictorial poetry in the Greco-Roman world, and Optatian’s place in it, can be found in Okáčová, “Publilius Optatianus Porphyrius: Characteristic Features of Late Ancient Figurative Poetics.”

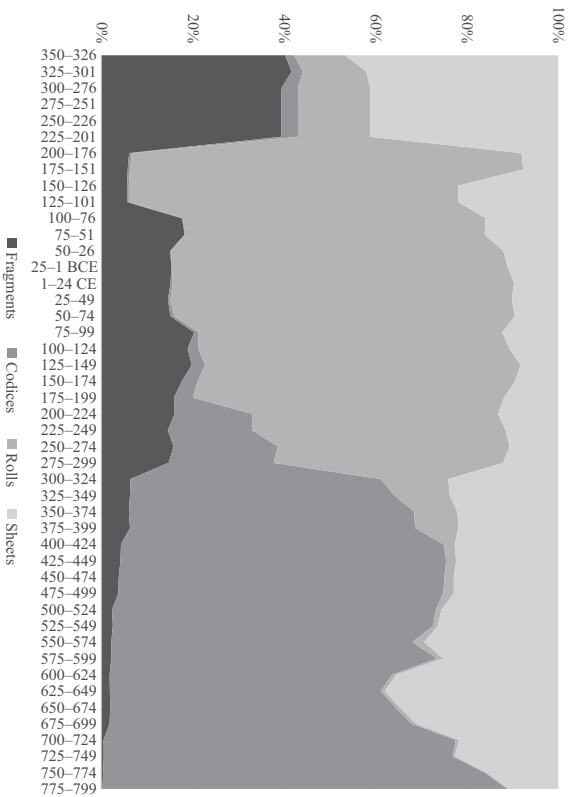


FIGURE 2. Relative proportion of book formats, 350 BCE–800 CE.

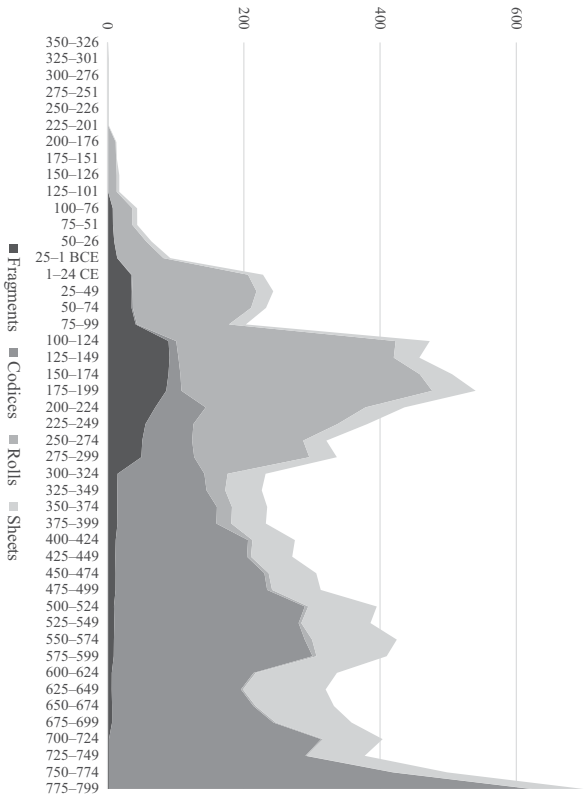


FIGURE 3. Books extant by format, 350 BCE–800 CE.

poems are 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. 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 (Figure 4).

Constantine himself requested the other earliest attested deluxe edition of a parchment codex, and sometime after 335 CE, Eusebius’s Caesarean scriptorium carried out the work. In a letter to Eusebius, the emperor

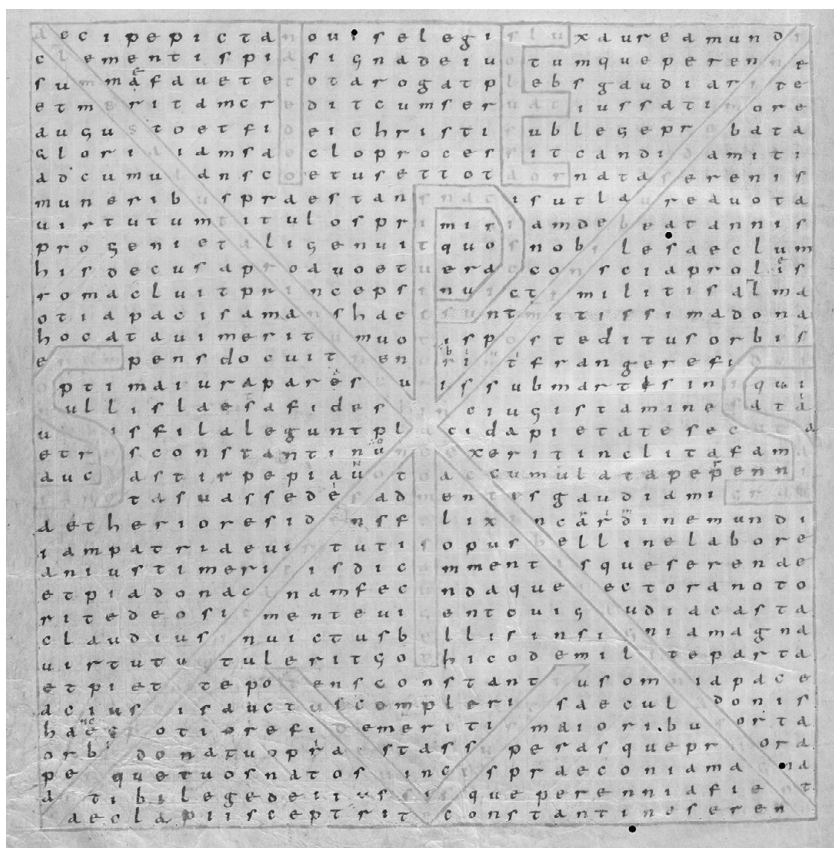


FIGURE 4. Bern, Burgerbibliothek, Cod. 212, f. 113v – composite manuscript: artes et carmina (www.e-codices.ch/en/list/one/bbb/o212). The complexity and visual nature of Optatian’s composition obviate any concern that this ninth-century copy is significantly different from the edition presented to Constantine in the early fourth century.

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.”¹³ Much has been made of this passage, especially since two fourth-century deluxe pandects remain to this day: the so-called codices Sinaiticus and Vaticanus.¹⁴ It is certainly possible that these texts are related to the imperial order for “sacred scriptures”; Theodore Skeat argued persuasively that a single scriptorium produced both manuscripts, and plausibly that they were produced under the direction of Eusebius for this very purpose.¹⁵ I find this analysis to be wishful, but only note here that Constantine’s order did not request pandects of the “sacred scriptures” like we have in these two manuscripts – comprising the entire canon, and then some – 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.¹⁶ Sinaiticus, at least, is not.¹⁷

¹³ Eusebius, *Life of Constantine* 4.36.2.

¹⁴ Respectively, British Library Add Ms 43725 (TM 62315) and Vatican Greek 1209 (TM 62316).

¹⁵ Skeat, “The Codex Sinaiticus, the Codex Vaticanus, and Constantine.” Anthony Grafton and Megan Hale Williams note that Skeat’s hypothesis is “tempting, though by no means proven.” *Christianity and the Transformation of the Book: Origen, Eusebius, and the Library of Caesarea*, 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, a copy of Cassius Dio’s *Roman History*. The scripts are nearly identical (Cavallo, *Ricerche sulla maiuscola biblica*, 91–96), but the biblical texts are dated to the fourth century while the text of Cassius Dio is relegated to the fifth, another instantiation of a common theme in which biblical texts are judged earlier than their paleographic contemporaries.

¹⁶ 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, as suggested by Grafton and Williams, *Christianity and the Transformation of the Book*, 220. 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.

¹⁷ Robbins, “‘Fifty Copies of the Sacred Writings’ (VC 4.36): Entire Bibles or Gospel Books,” 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.

CANON AND CODEX

“Canon” and “codex” are easy to mix up. In fact, most scholars do mix them up, presuming that it is the act of binding texts together – codification – that confers “canonical” status on material between the covers. This causes problems, both conceptual and interpretive, that need to be addressed before I can offer an account of the material aspects Theodosian scholarship in Chapters 6 and 7.

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.¹⁸ Tables, or *tabellae* in Latin, also enjoy dual usage, meaning either a codex format book, as discussed earlier, or precisely “tables” in the modern English sense: aligned lists of information relevant to a particular topic.¹⁹ The confusion among modern scholars between canon and codex arises out of these two words and their flexible usage in antiquity. We should not, however, presume that the modern confusion existed in the ancient world: it did not.

In antiquity, the canon of scripture was not a codex; it was a list. Consider Athanasius’s famous *39th Festal Letter* from 367 CE, which delineated for the first time the precise bounds of Christian scripture that came to dominate Catholic and Orthodox Christianity in the Middle Ages. Athanasius did not offer to his fellow clergy a codex authoritative texts, but rather stipulated 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 outloud (ἀναγινωσκόμενα)” without objection.²⁰ Similarly, Canon 24 of Carthage, originally from the Council of Hippo in 393 CE, says that only

¹⁸ 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. 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 2.

¹⁹ In this sense of tables, we might expect the codex form to be the natural format, because tables (astronomical, etc.) were generally technical and para-literary materials, which by the second and third centuries would generally be found in codices.

²⁰ Athanasius, *Festal Letter* 39 75.26–76.3. Text Joannou, *Les Canons des pères grecs*, 71–76.

texts from the canon can be read in churches “under the name of divine scripture.” Like Athanasius’s letter, it does not stipulate that only canonical materials can be read during services, but rather Canon 24 delineates the relative status of Christian documents that may well be used in preaching and catechesis.²¹ There is one dissenting voice: Canon 59 of the Council of Laodicea (ca. 365 CE) stipulates that *only* canonical texts can be read in a church setting. The following text from Laodicea, Canon 60, defines the bounds of the scriptural canon, but it comes with its own set of interpretive issues: its authenticity is dubious, at best. Further, at least according to Athanasius, books of the “Old Testament (παλαιὰ διαθήκη)” are intended to circulate in a particular “order (τάξις),” while the books of the New Testament are an unordered collection.²² The canon of the Hebrew Bible, according to Athanasius, was a pre-ordered list, while the canon of the New Testament was a collection of titles. Across the fourth century sources disagree on the extent, import, and implications of the “canon,” and the confusion did not let up in the fifth.

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.”²³ Even Codex Amiatinus, produced around the turn of the eighth century, 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.²⁴ 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.²⁵ Grafton and Williams conclude: “If the chronological questions Eusebius and his anonymous helpers put were traditional, the answers he found glittered with methodological and formal novelty.”²⁶

²¹ Canon 24 is Canon 27 in the Greek. While the canon was originally from 393, it was promulgated at the Council of Carthage in 418–419.

²² “Old Testament,” Athanasius, *Festal Letter* 39 72.26–73.1, “Order,” 73.4. 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 wrote his letters, and not the order in which they should appear in some unacknowledged codification. Athanasius, *Festal Letter* 39.74.14–15.

²³ Wallraff, *Kodex und Kanon*, 38. ²⁴ Codex Amiatinus 5r, TM 66398.

²⁵ Grafton and Williams, *Christianity and the Transformation of the Book*, 178–232.

²⁶ *Ibid.*, 230.

Similarly, Wallraff argues, “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 an archetype. 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.”²⁷ No example of this transformation of the codex from “shabby scratch pad” to prestige object is more striking than 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.

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, a gospel book is presented and the bishops in attendance come together “where the holy gospel lay in the midst of the throne, and *presented Christ appearing among us*.”²⁸ At the council of Constantinople in 449 litigants swore on the gospel book itself,²⁹ while at the Council of Chalcedon in 451 no session could commence without the presence of a gospel codex.³⁰ The *acta* of Chalcedon attend to the placement of gospel books with some regularity, in fact, and often repeat the requirement that a scriptural codex be present before proceedings. The fourth session begins typically, with a list of participants followed immediately by a description of the setting: “And when all had been seated before the railings of the most holy sanctuary, with the holy and undefiled gospel [book] having been brought to the center, the most glorious officials and the exalted assembly said: ‘So that we may decide what is to be done, let the decisions made in the previous hearings be read out.’”³¹ At the same session, confessions of faith could only be made in the presence of the “divine gospels.”³² During the tenth session, the gospel book itself signifies the authority of the speaker,³³ while during the eleventh session, 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.³⁴ Again during the twelfth session, the *acta* record that the gospel book must be brought in before the session can commence.³⁵ The presentation of these copies of the sacred scripture at Theodosian imperial councils makes clear that the

²⁷ Wallraff, *Kodex und Kanon*, 43. ²⁸ ACO 1.1.3.4 (p. 4). Emphasis added.

²⁹ ACO 2.1.1.640 (p. 158). ³⁰ ACO 2.1.1.4 (p. 65). ³¹ ACO 2.1.2.2 (p. 92).

³² ACO 2.1.2.8 (pp. 93–94). ³³ ACO 2.1.3.20 (p. 18). ³⁴ ACO 2.1.3.14 (p. 46).

³⁵ ACO 2.1.3.7–8 (pp. 53–54).

codex of scripture was an object of power itself, and it was emphatically not coterminous with the canon of scripture – everyone in the assembly agreed that the canon of scripture included books beyond the gospels, and yet it was a gospel codex which presented the power of the deity of material form.

In the Theodosian approach to scriptural codices we find a theology of bookish incarnation. In the words of 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.”³⁶ The codex had become a prestige object, capable of presenting the deity itself in time and in space. But the codices in these examples are not pandects like Sinaiticus or Vaticanus. Rather, they are gospel codices, containing presumably the four “canonized” gospels in a single codex, apart from the rest of the scriptural canon. Modern scholars confuse the data when we collapse canon and codex into a single signifier. And, as Wallraff notes, “nobody in Antiquity would have considered a gospel codex as a ‘partial edition’ of the New Testament.”³⁷ The examples here 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 which 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,” Theodor Skeat jumps right over the question of whether these pandects are intended to be presentations of the canon of scripture, assuming that the covers themselves signal the canonicity of the books between. The article undertakes a long discussion of Athanasius’s canon list in order to justify the presence of two noncanonical works (the *Epistle of Barnabas* and the *Shepherd of Hermas*) in Sinaiticus alongside a relatively standard “canonical” collection of scriptural texts.³⁸

³⁶ *Sayings of the Desert Fathers*, Epiphanius 8. Translation Benedicta Ward.

³⁷ Wallraff, *Kodex und Kanon*, 39.

³⁸ Skeat, “The Codex Sinaiticus, the Codex Vaticanus, and Constantine,” 599ff., following Lake and Lake, *Codex Sinaiticus Petropolitanus: The New Testament, the Epistle of Barnabas and the Shepherd of Hermas preserved in the Imperial Library of St. Petersburg*, XVIIff.

For Skeat, the presence of Barnabas and Hermas in a codex with the “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 a codex. It was not, nor can the same be said for any other Christian of the fourth or fifth century. The presence of noncanonical material between the same covers as canonical material, even among Orthodox Christians in antiquity, was no cause for compunction. Collections of “Christian” and “classical” material are known in manuscripts as early (or late, depending on one’s perspective) as the fourth century – including, famously, the Bodmer Thucydides, an intact bifolium with a section of the biblical book of Daniel copied just before the beginning of book 6 of Thucydides.³⁹ This codex also included material from the biblical book of Susannah. 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, a Coptic codex of the late fifth century containing the Gospels of Luke, John, and Mark (TM 107760, 107904, 107905). Should we assume that this codex attests to a Christian community where only those three gospels were “canonical”? Athanasius wouldn’t make such an assumption, and neither should modern scholars. Likewise P. Bodmer 3 is a fourth-century Coptic codex containing only the Gospel of John and Genesis (TM 107758), 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 (TM 107759).

From the fourth and fifth century, not one example 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.⁴⁰ This insight necessarily complicates accounts like that of Robert Kraft, who claims that in Late Antiquity, “‘biblical canon’ took on a very concrete meaning in the

³⁹ This codex (P. Bodmer XLV, XLVI, XLVII, XXVII) comes from what is likely a monastic or school setting and appears to have been discovered with a large cache of otherwise “Christian” materials. Nongbri, *God’s Library: The Archaeology of the Earliest Christian Manuscripts*, 193–194, 208–211.

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.

shadow of the appearance of the Bible as a single book in codex form.”⁴¹ There is an added issue, discussed already in the late nineteenth century by Theodor Zahn: it is likely that the great fourth- and fifth-century pandects such as Sinaiticus and Vaticanus survive precisely because they were exceedingly difficult to use and, as a result, they were not.⁴² As Robbins argues, in the fourth century, pandects “were never more than curiosities.”⁴³

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 ἀναγιγνωσκόμενα) itself breaks down, and Skeat admits as much, though without allowing that his 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.”⁴⁴ The fact is that most biblical books that we know from the fourth and fifth centuries are not pandects such as 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.⁴⁵ 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.⁴⁶ 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.”⁴⁷ It may well be the case that the “sacred scriptures” dispatched to Constantine contained only gospels.⁴⁸ But the reason that this is possible is not because the

⁴¹ Kraft, “The Codex and Canon Consciousness,” 230.

⁴² Zahn, *Geschichte des neutestamentlichen Kanons*, 1.61.

⁴³ Robbins, “Fifty Copies of the Sacred Writings,” 97.

⁴⁴ Skeat, “The Codex Sinaiticus, the Codex Vaticanus, and Constantine,” 601.

⁴⁵ Eusebius, *Life of Constantine* 4.36.2.

⁴⁶ Skeat, “The Codex Sinaiticus, the Codex Vaticanus, and Constantine,” 605n28.

⁴⁷ Gamble, *Books and Readers in the Early Church: A History of Early Christian Texts*, 159.

⁴⁸ Lightfoot, *Horae hebraicae et talmudicae in quatuor Evangelistas: cum tractatibus chorographicis, singulis suo evangelistae praemissis*, 1.1037, suggests that the books mentioned by Eusebius may have been *harmonia concorporatis*,” referring either to exquisitely produced gospel harmonies or, as suggested by Robbins’s reading, “gospel lections.” Robbins, “Fifty Copies of the Sacred Writings,” 92.

canon was underdetermined. The reason is that a codex did not contain the canon, and the bible was not a book.

These examples show that in antiquity, the act of binding texts together into a codex did not render them “canonized.” Further, these examples demonstrate that scriptural codices possessed an excess of vitality, beyond their function as inert vehicles for the transmission of text.⁴⁹ 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.⁵⁰

For many Theodosian Age productions the codex form itself signaled the authority of the materials presented within. Speaking about the *Theodosian Code*, Serena Ammirati argued that during 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].”⁵¹ Ammirati goes further, arguing that 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.⁵² 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 Faustus the Pretorian Prefect, during a meeting of the senate at his

⁴⁹ The language of “vitality” is follows Hindy Najman, “Reading Beyond Authority.”

⁵⁰ 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, though it may be overdetermined by the late ancient process of objectification of biblical texts described here.

⁵¹ Ammirati, *Sul libro latino antico: ricerche bibliologiche e paleografiche*, 85.

⁵² *Ibid.*, 92. See also Mark Vessey, who argues that by the 480s in the realm of poetry, “the multi-quire codex was more invitingly encompassing than any single-object Latin poetry book in the time of Horace or letter book in the time of Pliny could have been, and hence more likely to trigger fantasies of final aut(hol)ographic perfection.” Vessey, “Sidonius Apollinaris Writes Himself Out: Aut(hol)ograph and Architext in Late Roman Codex Society,” 129.

private residence in Rome late in 438.⁵³ The details of this fascinating document cannot hold me here, 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.⁵⁴ As we saw earlier at the Council of Chalcedon, the meeting began with a call to order and a reading from what is consistently referred to as a “consecrated” book given by the emperor’s “divine hand (*manu divina*).”⁵⁵

The consecrated book in question was the *Theodosian Code*. The *Gesta* reads: “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 book was read – *Theodosian Code* 1.1.5 – in order that the assembly might know the intention of the codification program, namely the creation of an aggregative scholarly resource which could serve as the basis for a further, universal “guide to life,” about which I have written more in the Appendix.⁵⁷ A collection of forty-six exclamations follows, ranging

⁵³ The traditional date for the document is December 25, 438, following Mommsen’s reading of “VIII. k. Ian.” in *Gesta Senatus* 8. Lorena Atzeri suggests an earlier date, namely the May 25, reading “VIII. k. I<u>n.” Atzeri, *Gesta senatus Romani de Theodosiano publicando: il Codice Teodosiano e la sua diffusione ufficiale in Occidente*, 131–132. Text Mommsen and Meyer, *Theodosiani libri XVI cum constitutionibus Sirmondianis pars 2*, 3.8–12. 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 late twelfth or early thirteenth century (Milan, Ambrosianus C 29 inf.), published initially by Walther Friedrich Colossius in 1824. 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*, 264–286. Translations are adapted from Pharr.

⁵⁴ I recommend both Atzeri’s full-length study of the text cited in note 53, as well as a succinct overview in Matthews, *Laying Down the Law*, 31–54. Benet Salway rightly notes that the *Acts of the Roman Senate* are nevertheless not an uninterested account. Salway, “The Publication and Application of the Theodosian Code. NTh 1, the *Gesta Senatus*, and the *Constitutionarii*,” 10.

⁵⁵ “Consecrated” *Gesta Senatus* 2, “divine hand” 3, 1.23. ⁵⁶ *Gesta Senatus* 3, 1.25.

⁵⁷ In 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 1.1.6 and that which was apparently realized.

from the general (“May it please our *Augusti* to live forever! Repeated 22 times”)⁵⁸ to the specific (“Let the codes be copied and dispatched to the provinces! Repeated 11 times” (5, 3.16); “We request that the codes be kept in the public archives! Repeated 15 times” (5, 3.20); “We request that you make a report to the emperor about the desires of the senate! Repeated 20 times” (5, 3.31). Many exclamations 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, and many copies of the codices are to be made “in order that the established laws may not be changed” (5, 3.8).

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 its text was transmitted – copies of the manuscript, even if identical, did not retain the special status as the original codex. As child nodes receded further from the original product presented at the wedding of Western emperor Valentinian III to Licinia Eudoxia (daughter of Eastern emperor Theodosius II), the status of the object changed.⁵⁹ 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 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 *constitutionarii* who were tasked with personally transcribing every published copy of the *Code*, including one to be sent to the province of Africa (Figure 5).⁶⁰ Faustus’s declamation is clear: each copy of the codex has a

⁵⁸ *Gesta Senatus* 5, 2.45. Acclamations of this type are typical of the genre both in Greek and Latin, and predate the Theodosian Age. Compare, for instance, *SEG* LI 1813, a transcription of acclamations from Termessos, Pisidia, in the mid-third century CE. Presented in Ballance and Roueché, “Three Inscriptions from Ovacik,” 109–110.

⁵⁹ 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.

⁶⁰ The copies and *corpora* are detailed in *Gesta Senatus* 7. A rescript of Valentinian III, December 23, 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 *constitutionarii*. 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

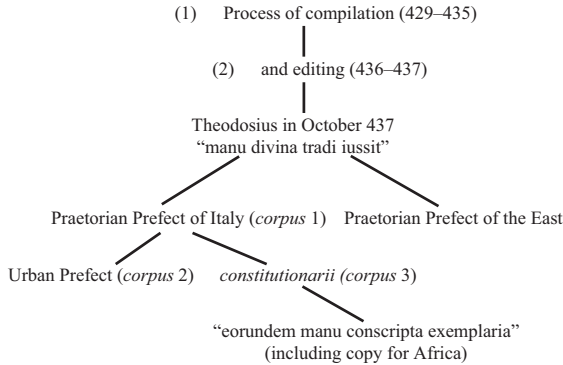


FIGURE 5. Stemma of *Theodosian Codices* described in *Gesta Senatus* 7. Chart adapted from Matthews, *Laying Down the Law*, 51.

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 (*eorundem manu*).”⁶¹ Our earliest surviving manuscript of the *Code* is Vat. Reg. Lat. 886, from the late fifth or early sixth century, 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 suggests 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.

The *Code* presented to the Senate in 438 was sacred. 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 447.⁶² In his first *novella* (or “new law”), Theodosius

status of the various groupings. See also Sirks, *The Theodosian Code: A Study*, 170. Salway notes plausibly that Faustus may speak (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.

⁶¹ *Gesta Senatus* 7.

⁶² *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 later, also concerns the promulgation and status of the *Theodosian Code*, and was promulgated from the Eastern court on February 15, 438, six weeks after the *Code* took effect as the bounds of the law throughout the empire.

It made provision for subsequent additions to the body of imperial general law, but always with reference to the version of the *Code* that was “kept in the sacred imperial archives (*sacris habentur in scriniis*).” Laws not officially added to the *Code(x)* were to be considered forgeries.⁶³ In other words, the *Theodosian Codex* itself, and not strictly the text that it contained, 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 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.

CONCLUSION

In antiquity the codex was pluripotent: it could heal the sick, drive away sin, invite Christ incarnate to an imperially sanctioned debate, and 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.⁶⁴ 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.

⁶³ *Nov. Th.* 1.6. The *novella* notes a few exceptions, as well, in 1.6.

⁶⁴ Jeremiah 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: Christian Books in Roman North Africa,” 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.

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 CE, 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* Damasus 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 Spirit, under the concept of equal

¹ 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 six years later Libanius reported in his *Oration for the Temples* 30.35 that sacrifice on behalf of the empire continued in Alexandria and Rome, at least. Hanns Christof Brennecke suggests that this constitution was hastily produced, and amended in July of 381 (*CTh* 16.1.3) to reflect more clearly the outcome of synodal disputation. Brennecke, “Synode als Institution zwischen Kaiser und Kirche in der Spätantike: Überlegungen zur Synodalgeschichte des 4. Jahrhunderts,” 43–45.

majesty and of the Holy Trinity.”³ 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 by “the name ‘Catholic Christian.’”⁴ 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 data to a political and social environment that was intermittently hostile. The late fourth-century revolution in governing ideology and in scholastic methodology, on the other hand, is well documented and was active throughout the period under discussion. New forms of knowledge production arose rapidly in the Theodosian dynasty, and scholars reacted and responded to these new forms of knowledge production in real time. In Chapters 3 and 4 I investigated literary sources in order to trace the proliferation of Nicene Christian methods 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 that 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 suffused a scholastic landscape over which the predominance of codes cast a long shadow. This chapter picks up there, where I left off at the end of Chapter 5.

GRATIAN’S TALISMAN

In the summer of 378 the emperor Gratian was nineteen or twenty 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,” 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.⁵ Ambrose warned that the “book

³ Rüpke (ed.), *Fasti Sacerdotum*, 2.1433 s.v. “Damasus,” *CTh* 16.1.2.0.

⁴ *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. Text Grégoire and Kugenern.

⁵ Ammianus Marcellinus, *Res Gestae* 31.7.2.

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*),”⁶ and would satisfy the emperor’s needs for a talisman even though, he added, the Nicene Creed itself already was “just like a trophy (*tropaeum*), raised to proclaim victory over faithless ones throughout the world.”⁷ As Ambrose well knew, Constantine himself marched to battle with a *tropaeum* – a “trophy of a cross in light (σταυροῦ τρόπαιον ἐκ φωτός)” that god revealed to Constantine before his battle at the Milvian Bridge, in Eusebius’s account.⁸ Gratian 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 The young emperor asked for a codex of scholastic opinions on a theological question that had been adjudicated thirty-four years before his birth.¹¹

Gratian’s request for a book of opinions as a 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 – a book of scholarship – for his talisman instead. His request betrays 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 produced during the Theodosian Age. The literary qualities of this text are remarkable in and of themselves; in the earlier quotation Ambrose suggested that the collation of opinions was only the first step toward the production of universal truth. In other words, he

⁶ Ambrose, *Concerning the Faith* 1.pro.4 PL 16.529A.

⁷ ... *velut tropaeum, toto orbe subactis perfidis, extulerunt. Concerning the Faith* 1.pro.5 PL 16.529B.

⁸ Eusebius, *Life of Constantine* 1.28.

⁹ See, for instance, Princeton University Art Museum 2004-85, a Roman intaglio gem in hematite from the third-fifth century depicting a Saint (likely George) on horseback slaying a female demon.

¹⁰ Lactantius, *On the Deaths of the Persecutors* 44.5.

¹¹ On the publication of the first two books of *De fide*, see Williams, *Ambrose of Milan and the End of the Arian-Nicene Conflicts*, 128–153.

takes part in a structure of knowledge known from a wide variety of other Theodosian Age productions that I detailed in Chapters 3 and 4.¹² 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 also concerned 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.

AMBROSE: CONCERNING THE FAITH

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. For Ambrose, this problem was acute. In *Concerning the Faith* he claims that his predecessors, and scripture itself, demanded 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

This passage immediately precedes Arius's heretical statement of faith. Ambrose admits that the dominant scholarly method requires him to include heretical statements in his work, and that those who fail to say openly what they think thereby render their thoughts

¹² Ambrose, *Concerning the Faith* 1.pro.5.

¹³ Ambrose, *Concerning the Faith* 1.18.119. Translation adapted from NPNF. PL 16.555C–556A.

“deceitful” – playing in a particularly Ambrosian manner with the dual meaning of *fucus*, as both “red blush” and “deceit.” In order to expose heresies as such, and not to allow them to hide as if wearing makeup, 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” (1.18.119). 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 as part of his text. In order to combat heresy, Ambrose amply warns the reader that what is to come should not be trusted.

The earliest known reader of Ambrose’s *Concerning the Faith* was a scribe working from Italy in early to mid-fifth century. The scribe must have found Ambrose’s warning compelling, and perhaps insufficient, because while copying this text the scribe employed another set of mechanisms to make abundantly clear to any reader that the text they were about to read was dangerous. Perhaps taking a cue 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 Arii* – “Arius’s statement of faith” (Figure 6).

This is the earliest extant manuscript of Ambrose’s *Concerning the Faith*, and aside from incipits and explicits, its scribe uses red ink only to

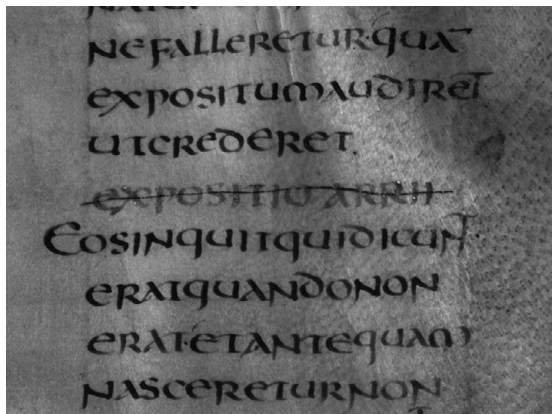


FIGURE 6. Stiftsbibliothek Lavanttal 1, 34r (TM 67637, CLA 1450). The scribal addition to Ambrose’s text, reading “*Expositio Arii*,” is rendered in red ink, different from the brown used for the base text. Images graciously provided by the Stiftsbibliothek St. Paulus in Lavanttal, Austria.

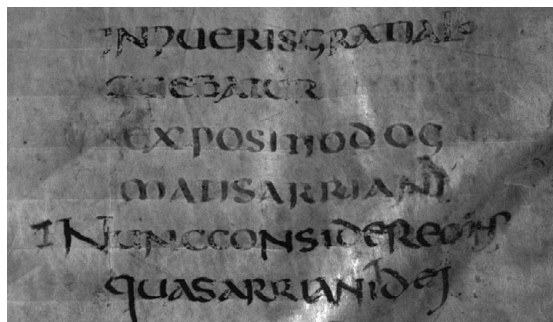


FIGURE 7. Stiftsbibliothek Lavanttal 1, 10v. The scribal gloss “Expositio dogmatis Arriani” appears in red ink, different from the brown used for the base text.

mark off heresy. In other words, this deluxe Theodosian manuscript uses red ink to deal with the problem of discernment occasioned by an expectation of aggregation as the proper form of scholastic knowledge production. 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) *scholion* on Cicero for which the scribe used red for the first three lines of each book and for words rendered in Greek.¹⁴ Red ink was commonly used for identifying to the reader something in the text requiring emphasis. In this fifth-century copy of Ambrose’s *Concerning the Faith*, it was used to mark off heresy. As is clear in Figure 6, a later corrector (likely Abbot Hartmut of St. Gall) crossed out the warning because, strictly speaking, it is not part of Ambrose’s text.¹⁵ Rather, I argue that it is an addition made by this Theodosian scribe in response to the problem of discernment.

In this manuscript all heretical statements are indicated 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, where the scribe warns that the following statement comes from arch-heretic Arius

¹⁴ TM 66123. There is also space left for three lines of each book in red uncial in Vat. Lat. 5757 (TM 66130), a Theodosian Age copy of Cicero’s *Republic* palimpsested in the seventh century with 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 similarly used ekthesis (visible in figure 6.1) throughout the manuscript to mark off the beginning new sense units.

¹⁵ On Abbot Hartmut’s corrections in this manuscript see *CLA* 10.1450, p.5

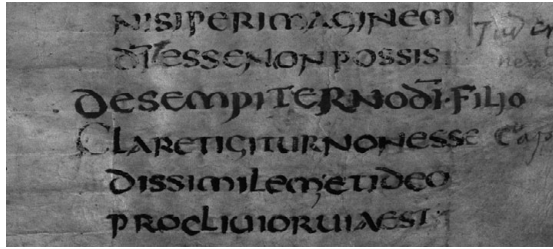


FIGURE 8. Stiftsbibliothek Lavanttal 1, 15r, with the scribal gloss “De Sempiterno d(e)i Filio” in red ink.

by writing *Expositio dogmatis Arriani* in red ink. See also Figure 8, 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.¹⁶ Again, this title appears to be a scribal gloss and not part of Ambrose’s initial text. 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.

I have argued that across the scholarly landscape of the Theodosian Age we see a dominant method featuring arguments based on aggregation. This earliest manuscript of Ambrose shows that already in the Theodosian Age, concerns stemming from this method 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 divergent ways. We can glimpse the variety of responses with high fidelity 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, both produced in Italy, so far as paleography and codicology can attest.¹⁷ 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

¹⁶ The same use of red ink and indentation is visible in the other Theodosian Age copy of this text, Paris BnF 8907 302v (compare Figure 7) and 305r (compare Figure 8), on which I write more later.

¹⁷ See *CLA* 572, 1450.

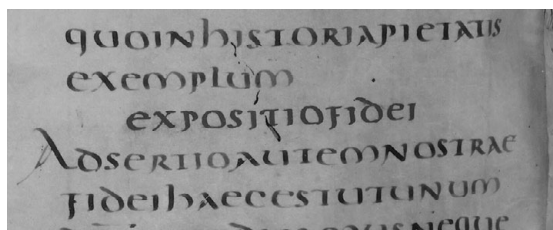


FIGURE 9. Paris, Bibliothèque Nationale Lat. 8907, 298v (source: [gallica.bnf.fr / BnF](http://gallica.bnf.fr/BnF)). The scribal gloss “Expositio Fidei” appears in red ink, different from the brown ink used for the base text.

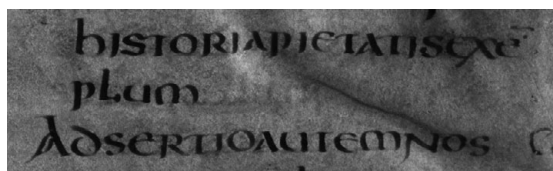


FIGURE 10. Stiftsbibliothek Lavanttal 1, 4r, which notes the coming *pietatis exe(m)plum* without recourse to red ink, which is reserved in this manuscript for heretical creeds and the incipits and explicits of books.

8907 supplemented Ambrose’s text in their own way, using red throughout the manuscript to mark off heretical and orthodox creeds alike.¹⁸ 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 faith”) in red letters, making it abundantly clear that what follows is an authorized creed (Figure 9). We can see the Paris scribe’s agency in this incursion into Ambrose’s text, and guess at their intention, by comparing it with the same passage in the Lavanttal copy. The Lavanttal manuscript witnesses the same base text as the Paris copy, but only the Paris scribe added *Expositio Fidei* in red ink to indicate that the *pietatis exemplum* which follows is an orthodox creed (Figure 10).

Look carefully at Figures 9 and 10. 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

¹⁸ BnF Lat. 8907, TM 66704.

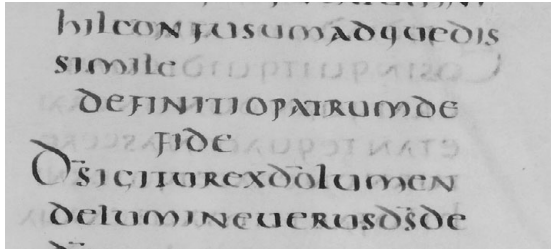


FIGURE 11. Paris, Bibliothèque Nationale Lat. 8907, 315r (source: [gallica.bnf.fr / BnF](https://gallica.bnf.fr/BnF)).

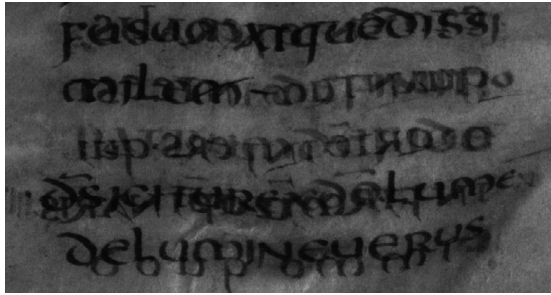


FIGURE 12. Stiftsbibliothek Lavanttal 1, 33v. A corrector has struck out the *M* on the end of *disimile* in Lavanttal, and added an *N* at the end of *lumen* in what appears to be a contemporary half-uncial hand. The thinner brown lines filling the blank space are reminiscent of the strikethrough on 34r (Figure 6), 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 – perhaps precisely the clarifying insertion found at this point in BnF Lat. 8907, 315r reading *definitio patrum de fide* (Figure 11).

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 11). On the other hand, the Lavanttal scribe left a blank space at the same point in the text (Figure 12). 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 so 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.

The scribes of Paris Latin 8907 and Stiftsbibliothek Lavanttal 1 both copied Ambrose's *Concerning the Decrees* in Italy at about the same time,¹⁹ and both scribes deal with the same problem: the problem of including heretical material in an orthodox production.²⁰ Yet each arrived at a slightly different solution. The difference between 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.

HILARY: 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 and the creed that had been decided twenty years earlier as an attempt to settle the matter. 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. The earliest manuscript of *Concerning the Synods* was copied in 509. In this manuscript, too, scribes introduced 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 Syrmium per Osium Potamium conscriptae* (Figure 13). This part of the text is marked out with ekthesis, as is the heretical creed on the next page, beginning with *Unum constat* (Figure 14).

¹⁹ See support for the dating of the Paris manuscript in Bammel, "From the School of Maximinus: The Arian Material in Paris Ms. Lat. 8907," 391–392; and Gryson and Gilissen, "Paléographie et critique littéraire: Réflexions méthodologiques à propos du Parisinus latinus 8907," 335–336.

²⁰ 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, 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 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 redating 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 Rand) in *A Sixth-Century Fragment of the Letters of Pliny the Younger: A Study of Six Leaves of an Uncial Manuscript Preserved in the Pierpont Morgan Library, New York*. See also, importantly, Martini, "Recensione: Roger Gryson–Léon Gilissen, *Les scolies ariennes du Parisinus latinus 8907*," 113.

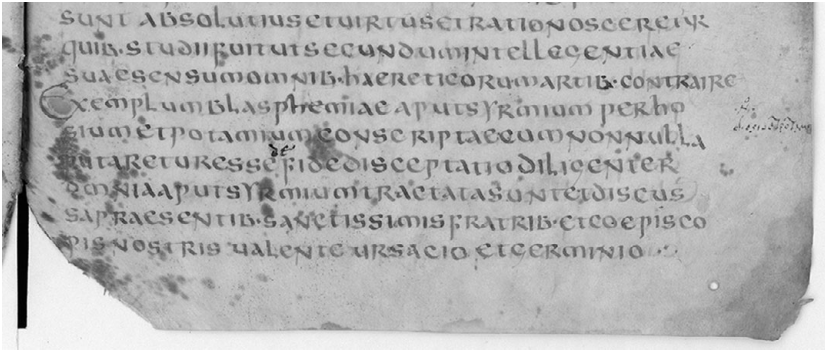


FIGURE 13. Vat. Arch. Cap. S. Pietro. D. 182, 303r, where a heretical creed is signaled with ekthesis and a textual note, reading *Exemplum blasphemiae apud Syrmium per Osium Potamium conscriptae*.

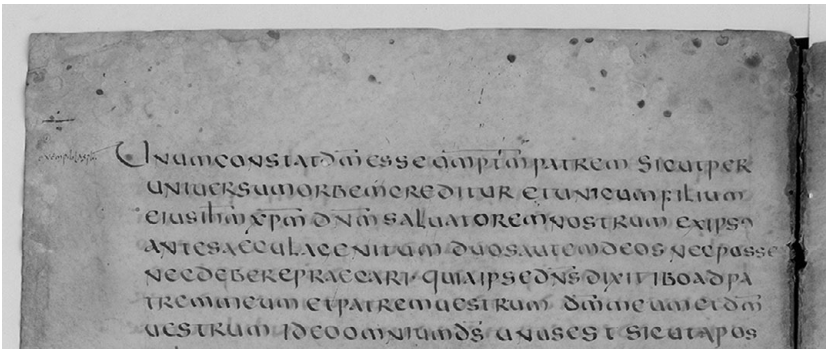


FIGURE 14. Vat. Arch. Cap. S. Pietro. D. 182, 303v, where a heretical creed is identified with ekthesis, an obelus in the upper left, and the text *Exemp(lum) blasphemiae*.

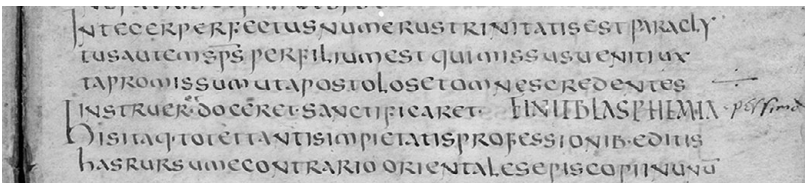


FIGURE 15. Vat. Arch. Cap. S. Pietro. D. 182, 304r. The end of a heretical creed, identified by the initial scribe with *Finit blasphemia* in oversized capitals, to which a later scribe added an obelus on the right, and the word *perissima* in the margin.

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 is heretical and what follows is approved (Figure 15). A later reader (though

likely one and 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*: “a sample of heresy” which is present only for the purposes of aggregation. This marginal note transparently mirrors *Finit blasphemia* on the following page, and reiterates, yet again, that the intervening text should not be mistaken for 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.” This further addition apparently updated the manuscript for different conventions of notification, but it carried the same message: what is here is heresy.²¹ Already during the Theodosian Age, the problem of discernment 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 minds, and the marginalia, of later readers too.

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*, copied likely during the Ostrogothic period and thus shortly after the end of the Theodosian Age (LDAB 7924). This manuscript shows a different method of dealing with the inclusion of heretical materials in Hilary’s text. According to Lowe, the manuscript was “written doubtless in Italy by a master scribe in a scriptorium maintaining high standards,”²² and it marks out the heretical creed from Sirmium in 357 as we saw earlier: with ekthesis in addition to the text *Exemplum blasphemiae apud Sirmium per Ossium et Putanium conscribtae*, “a copy of the heresy of Sirmium written by Ossius and Potamius” (Figure 16).²³

²¹ Similarly, 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 had failed to do so. 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*.

²² CLA 5.545a p.9

²³ This is the so-called Second Creed of Sirmium. *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

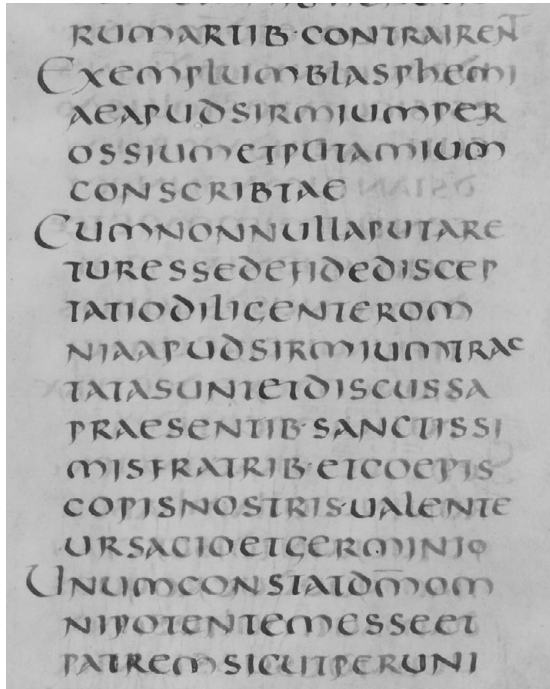


FIGURE 16. Paris, Bibliothèque Nationale Lat. 2630, 320r. *Concerning the Synods* 11 (source: gallica.bnf.fr / BnF).²⁴

After this textual warning, the same scribe identifies heresy by indenting (*eisthesis*) heretical statements further than the rest of the text (Figure 17). Orthodox statements, on the other hand, are not indented in this manuscript. See, for instance, the orthodox statement given at

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 (“conscriptae” 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” speaks to common pronunciation in Ostrogothic Italy.

²⁴ 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, in fact, *scholium hanc ab ipso Migno(ne) praefixum*. Migne does not gloss the orthodox creed in chapter 38 (seen in Figure 18).

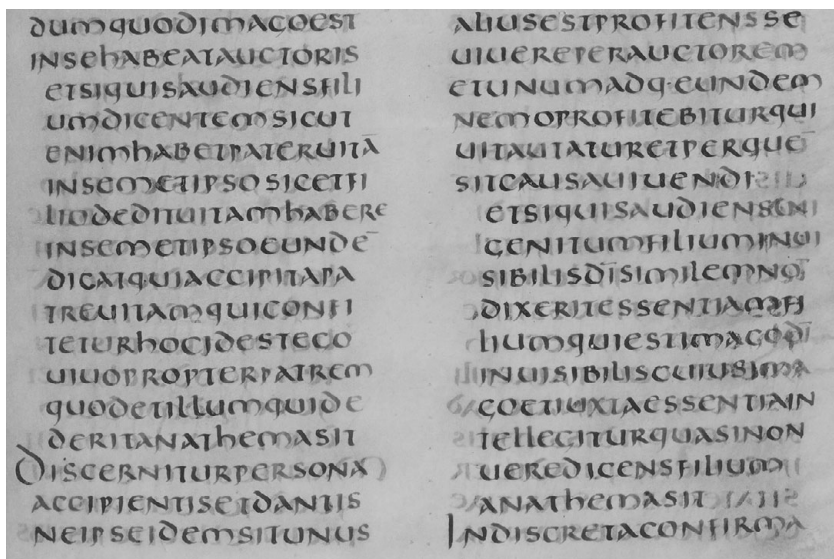


FIGURE 17. Paris, Bibliothèque Nationale Lat. 2630, 322r. Concerning the Synods 15 (source: gallica.bnf.fr / BnF).

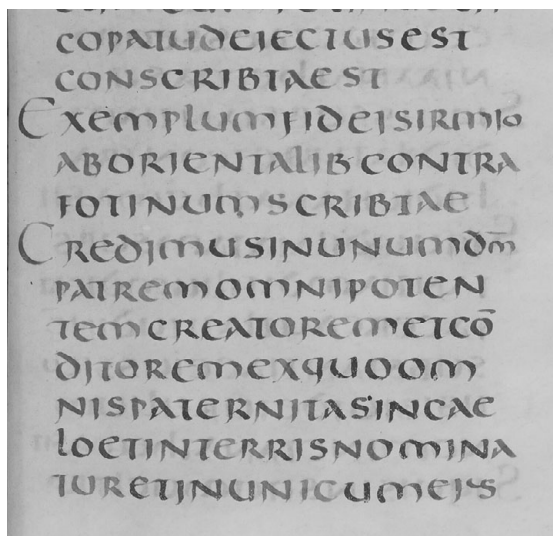


FIGURE 18. Paris, Bibliothèque Nationale Lat. 2630, 335r. Concerning the Synods 38 (source: gallica.bnf.fr / BnF).

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 Orientalib(us) contra Fotinum scribtae*), but it is not indented (Figure 18). 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.

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, a late second- or early third-century copy of Irenaeus's *Against Heresies* with "wedge-shaped signs in the margin similar to those employed for filling up short lines."²⁵ In this case, the scribe used wedges typically employed by Egyptian scholiasts on the right margin of the recto, which appear to indicate a quotation from the *Gospel according to Matthew* 3:16–17.²⁶ 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 value in using small wedges to mark 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 texts that were considered authoritative, for all quotations, or in some other capacity.

Already in the late second or early third century, Tertullian suggested paratextual solutions to problems occasioned by his own form of theological scholarship, particularly when discussing Greek cosmological texts and ideas in Latin. In *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."²⁷ 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

²⁵ Grenfell and Hunt, *The Oxyrhynchus Papyri*, vol. 3, 10. TM 61317.

²⁶ Richard and Hemmerdinger, "Trois nouveaux fragments de l'Adversus haereses de Saint Irénée," 252–255.

²⁷ Tertullian, *Against the Valentinians*, 6.1.

marked with supralinear strokes – because explaining the personal names is made necessary by the ambiguities of some of them, which suggest some different meaning.”²⁸ 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.²⁹ 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 employed, 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 predates the Theodosian 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 now turn. 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 bible and left 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 capitols as well as Jewish teachers in Palestine. And yet, for all his learning and famed reclusive irascibility, Jerome 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.

In 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

²⁸ Ibid., 6.2.

²⁹ The earliest text is Sélestat, Bibliothèque humaniste Ms. 88, and dates to the eleventh century.

the relationship between Hebrew and the Greek manuscripts, which differ by “almost seven hundred or eight hundred verses.”³⁰ 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 (*non tam pulchros codices, quam emendatos*).”³¹ The boast might seem hollow, or at least exaggerated, were it not for a manuscript of precisely this type and time period remaining extant: the so-called Codex Veronensis, a fifth-century codex that fits Jerome’s mocking description of the most gauche Theodosian Age bibles.³² The fifth-century codex comprises 388 folia dyed purple, with Latin uncial of a Theodosian type written in silver and gold ink: silver for the text, gold for the first lines of each gospel, *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.”³³

His uncompromising text critical work brought Jerome into contact with Origen’s *Hexapla*, which offered two columns of Jewish scriptures in Hebrew and four in later Greek translations, including a second century translation by Theodotion.³⁴ Origen and Theodotion both repurposed

³⁰ Jerome, *Preface to Job*. Text and translation adapted from SC 592.

³¹ Ibid. 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 correctness and accurate divisions.”

³² Verona, Biblioteca Capitolare VI.6(30). The book is referred to as the *Evangelia antehieronimiana Purpurea*: “the purple pre-Jerome gospel book.” A single letter substitution would render “the anti-Jerome purple gospel book,” perhaps just as apt given Jerome’s barbed discussion of such deluxe editions of the New Testament in (what he considered) inferior translations.

³³ Jerome, *Preface to Job*.

³⁴ For a fuller accounting of Jerome’s text-critical work, see Hulley, “Principles of Textual Criticism Known to St. Jerome.”

two Aristarchan signs – the asterisk and the obelus – to offer a transparent collation of translations, indicating places where the Hebrew base text did not match up with Greek translations. Jerome was familiar with Origen's polyglot edition and explicitly claims to benefit from the addition of asterisks and *obeli*, which Sebastian Brock points out were not used in a precisely text critical sense.³⁵ Origen was not concerned with establishing the "original text"; his interests were apologetic, "providing the Christian controversialist with a text that would be acceptable in the authoritative eyes of contemporary Jewish scholars."³⁶ For his own work, Jerome did not simply pick up the Aristarchan asterisk and obelus and employ them in his translation to clarify the text, either. 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.³⁷

Already in the early second century, Suetonius made clear that Roman scholars had employed the Aristarchan signs for quite some time and to various ends.³⁸ Even in antiquity, the Aristarchan sigla were generalized tools without strictly circumscribed significations. As shown by Kathleen McNamee, "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."³⁹ In the Herculaneum and Oxyrhynchus papyri, Aristarchan signs generally function as rudimentary hypertexts, pointing simply to the existence of a separate commentary or *hupomnēma*.⁴⁰ Jerome, too, picked up old tools and

³⁵ Jerome, *Preface to Job*.

³⁶ Brock, "Origen's Aims as a Textual Critic of the Old Testament," 216(344).

³⁷ The earliest use of an obelus is probably P. Tebt. I 4, containing part of *Iliad* book 2 and copied in the mid-second century BCE. Turner, "Papyri and Greek Literature," 113.

³⁸ Suetonius *De Notis*. See also the *Anecdota Parisina* (BnF Latin 7530), a late eighth-century explanation of paratextual signs that Roman scholars used. This text, as well as Isidore's similar list in *Etymologies* 1.21, was almost certainly based on Suetonius's *De notis*, though it is excerpted and corrupt. Zetzel, *Latin Textual Criticism in Antiquity*, 15.

³⁹ McNamee, *Sigla and Select Marginalia in Greek Literary Papyri*, 25 ⁴⁰ *Ibid.*, 24.

employed them to solve new problems, motivated by a new focus on aggregation.⁴¹

THE PROBLEM OF DISCERNMENT IN NONTHEOLOGICAL 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 laws and laws “which had fallen into disuse” 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 (1.1.5). 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 initial 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.⁴² My interest is not in the precise legal force of the *Code* but in its stated intentions, framing, and reception. Early commentaries 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 scholastic 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 of a sixth-century manuscript of the *Code* now housed at the Vatican Library.⁴³ The semi-cursive uncial of the base text gives the impression that it was a private copy,⁴⁴ and the

⁴¹ 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.

⁴² 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 Wojtczak’s discussion of *CTh* 16.2.27, and the constitution supervening it promulgated two months later, presented in the *Code* as 16.2.28. Wojtczak, “Between Heaven and Earth: Family’s Ownership and Rights of Monastic Communities in the Light of the Theodosian Code and Legal Practice of Late Antiquity,” 155–157.

⁴³ Vat. Reg. Lat. 886 (TM 66206)

⁴⁴ Thus, possibly in contravention of the rescript of Valentinian III titled *De constitutionariis* which explicitly prohibited the production of unauthorized copies, on which I write more in Chapter 8. These notes themselves suggest that this manuscript was a private copy, as the official copies, at least according to the Senate acclamations from the

presence of staurograms at the beginning of each fascicle, along with the Latin letters rendered in with a stylus cut for Greek, suggests strongly that the text was copied in the Eastern empire, likely Constantinople (Figure 19).⁴⁵ The base text and the marginal commentary were copied in the early sixth century, but both are products of the fifth.⁴⁶ 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 alongside its creation in an aggregative format, as a scholarly resource for *diligentiores*: “more industrious people.”⁴⁷

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 fifth-century *Summaria antiqua*, over the entire length of the 448 folia noting important details such 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*)” (Figure 20). The most common type of marginal note in this manuscript indicates that the statute is no longer in use, that it is similar to another constitution (*similis* followed by the number of the note, or *superiori similis*), or that it contradicts another constitution (generally *contaria superiori* or *contraria*, followed by the number of the note). Of the 1,230 scholia on these 8 books of the *Theodosian Code*, fully 25 percent are of this final type, indicating a law in the collection superseded by another in the collection.⁴⁸ For instance, the *scholion* on *CTh* 16.10.1 reads “this is no longer in force (*haec inutilis est*)” next to Constantine’s famous provision that in the event of lightning strikes on public buildings, “the observance of the

reception and promulgation of the *Theodosian Code* in the West, specifically prohibit such *notae iuris* on official copies. *Gesta Senatus* 5.

⁴⁵ See Ammirati, “Per una storia del libro latino antico: osservazioni paleografiche, bibliologiche e codicologiche sui manoscritti latini di argomento legale dalle origini alla tarda antichità,” 104; Ammirati, *Sul libro latino antico*, 101–102.

⁴⁶ Sirks, *Summaria antiqua codicis theodosiani: réédition avec les gloses publiées dans Codicis Theodosiani fragmenta Taurinensia*, xi.

⁴⁷ *CTh* 1.1.5.

⁴⁸ The number of *scholia* is difficult to pin down because the scribe responsible for the marginal notes in this manuscript often skips *scholia* in their exemplar. For instance, *CTh* 11.1 has two marginal notes, but they are numbered 29 and 37, suggesting that at least thirty-five 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.

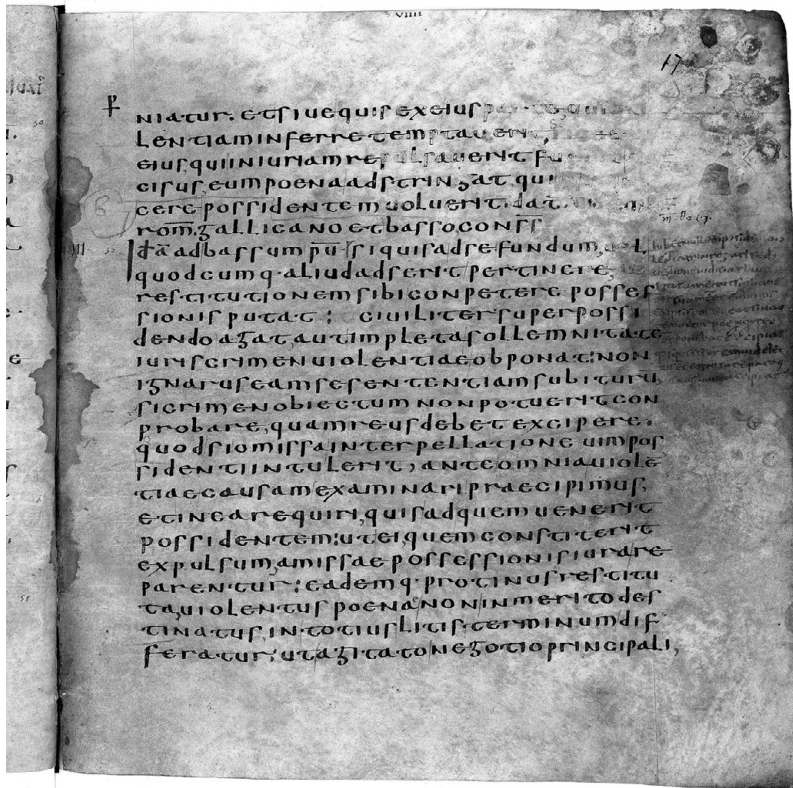


FIGURE 19. Vat. Reg. Lat. 886, 17r, with a staurogram at the upper left denoting the beginning of the fascicle and a marginal note on the right, appearing darker due to use of reagents to reveal the faint brown ink, likely by Angelo Mai. The base text is *CTh* 9.10.2–3. The strange appearance of the Latin text is due to the letters being rendered with a pen cut for Greek.⁴⁹

ancient custom shall be retained,” namely that a *haruspex* should be consulted to interpret the portent. By the time of the *Theodosian Code*’s

⁴⁹ Niebuhr wrote a letter to Savigny in 1817 about this manuscript, calling the marginal notes “very difficult to read, because they are faded.” Niebuhr, “Notizen über Handschriften in der Vaticana: an Savigny, von Niebuhr. Erster Brief,” 411–412. The fact that Angelo Mai was able to publish the marginal notes in 1823 (as *Iuris Civilis Antejustinianeae reliquiae ineditae*) suggests that it was he who applied the reagents. Sirks rightly notes that the results were mixed. Sirks, *Summaria Antiqua*, x. Some notes, such as the one in Figure 20, were rendered only partially visible through the use of reagents.

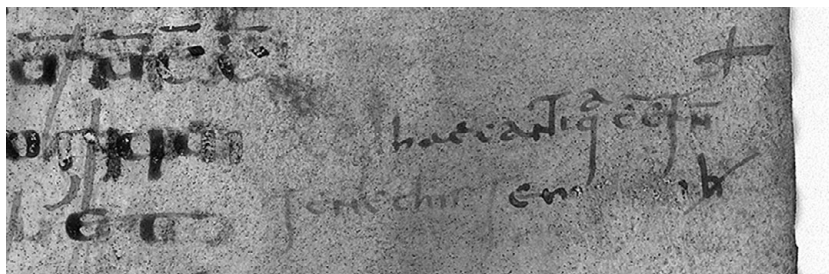


FIGURE 20. Vat. Reg. Lat. 886, 244r, note 90 on *CTh* 12.1, reading *haec antiqua e(st) et n(on) tenet his temp[or]ib(us)*.

promulgation, this law, and its institutional support for Traditionalist haruspicy, had been long abrogated. This copy of the *Code* makes clear to a reader that the law is included in the collection for the purpose of aggregation, and not because it is still enforceable.

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 which nevertheless present an authoritative promulgation of law.⁵⁰ The centrality of aggregation as a practice 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 fifth-century 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 scholarly practice. We see fifth-century readers responding to a new environment, writing new texts.

NEW TEXTS

Kathleen McNamee undertook the most extensive study of the history of paratextual markup in ancient manuscripts. In a magnum opus of careful,

⁵⁰ As much as can be said about the identity of the original scholiast is available in Mai, *Iuris civilis antejustiniani reliquiae ineditae*, xiii–xv; and Sirks, *Summaria Antiqua*, xi–xii.

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 should include extensive exegesis in the margins.”⁵¹ McNamee demonstrates a clear link between the reforms of Theodosius and changing bookforms, and she specifically argues that the teaching of Latin legal texts in the Greek East after 395 CE necessitated wide margins which allow for glosses and commentary. “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.”⁵² But the known *scholia* in the margins of juristic texts, beginning with the *Summaria antiqua* discussed earlier, 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,”⁵³ appear only in the fifth century, and the paratextual features that I described earlier 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 scholastic operations in the fourth century. And it was Nicene Christians who prized book formats such as the wide-margin codex which most readily invited commentarial intervention in the margins, such as the Codex Sinaiticus discussed earlier. Christians 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 arose under the influence of a particular set of intra-Christian, theological arguments.

⁵¹ McNamee, *Annotations in Greek and Latin Texts from Egypt*, 79. ⁵² Ibid.

⁵³ Ibid., 81. McNamee calls these “compilations.”

These scholarly practices proliferated through other domains when Christians came to significant political power – only during the Theodosian Age. McNamee’s analysis already presupposes the cross-disciplinary interaction that I explore in Chapter 1:

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.⁵⁴

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 book: 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 scholarly expectations among Christians. It is not surprising that McNamee did not notice that Christians came to the aggregative and commentarial format first, however, because her analysis explicitly excludes both Christian materials *and* literary sources: the two archives that might have suggested an underlying rationale for the Theodosian Age revolution in book forms.⁵⁵

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, as John Williams White argued.⁵⁶ The problem with this theory is that it must be divined

⁵⁴ Ibid., 82. ⁵⁵ Ibid., 2.

⁵⁶ White, *The Scholia on the Aves of Aristophanes, with an Introduction on the Origin, Development, Transmission, and Extant Sources of the Old Greek Commentary on His Comedies*, lxiv–lxv; and Wendel, *Scholia in Apollonium Rhodium vetera*, xvii–xviii. Zuntz sees the tradition of poetic scholia responding to, rather than preceding, biblical *catenae*. Zuntz, *An Inquiry into the Transmission of the Plays of Euripides*, 275.

in the silence between the rather cursory marginalia on known ancient poetic texts and the full-blown scholiastic tradition received in medieval manuscripts.⁵⁷

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 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.⁵⁸

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.⁵⁹

⁵⁷ 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.

⁵⁸ *Ibid.*, 580.

⁵⁹ Nigel 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

Nevertheless, 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 posed about the birth of the *scholia/catenae* tradition, Zuntz is nevertheless quite right to point out a set of coincidences in the fifth century which demand explanation. During the Theodosian Age a 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, such as the *Theodosian Code* and the Christian theological scholarship discussed in Chapters 2 and 3. 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 scholarly practices, we can perhaps further situate it as provincial *Roman* literature. I return to this argument in Chapter 8.

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, but all agree that the situation 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 centrality of new scholarly practices inflected by a century of doctrinal dispute. The intention and methods of jurists and scholiasts must be read from the details 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

intrinsically very likely that a Christian of that date should do so." Wilson, "A Chapter in the History of Scholia," 254.

clear.⁶⁰ Nicene Christians, on the other hand, 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. Their changing scholarly predilections, I have argued, best explain those which followed in other scholarly domains.

⁶⁰ 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/σχόλια*), homilies, and books (*voluminal/τόμοι*). Jerome, *Preface to the Fifteen Homilies on Ezekiel*. Text PL 25.585A–586A.

Christian Tools in Traditionalist Texts

Vat. Reg. Lat. 2077 is a sixth-century codex comprising Eusebius of Caesarea's *Chronicon*, Gennadius of Massila's supplement to Jerome's *On Eminent Men*, and Vegetius's *Epitome of Military Science*: an encyclopedic handbook written sometime in the late fourth or early fifth century "for the Emperor Theodosius."¹ It is an odd collection of materials. The codex includes works ranging from historical chronicle to military history, framed by an opening request and closing invocation 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 scribe responsible for the body text wrote a small note that reads "Christ give help (*Christe adiuba*)!"² and at the end, trailing the final piece of scholarship in the codex, "Christ give help to the one desiring to know you (*Christe adiuba desiderantem te nosse*)."³ This scribe responsible for collecting these

¹ *Ad Theodosium imperatorem*. The inscription is ambiguous as to which "Emperor Theodosius" the work is dedicated. On dating see Seeck, "Die Zeit des Vegetius" and Goffart, "The Date and Purpose of Vegetius' 'De re militari'".

² I have translated the regularized spelling of *adiuva*. *Adiuba* is nonsensical, and late ancient scribes regularly substitute V for B – especially in scribal notes. See, for instance, Codex Puteanus (BnF Lat. 5730, TM 66692) in which the early fifth-century (contemporary) corrector repeatedly uses *recognobi* for *recognovi*.

³ 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. The abiding scholastic provenance of this palimpsest is further demonstrated its undertext: one of the earliest copies of Cicero's *In Verrem*.

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 within a Christian scholastic context – is not an etic heuristic: this manuscript of Vegetius quite literally has a Christian frame. The manuscript is not unique, either; as mentioned in Chapter 5, the so-called Bodmer Thucydides from the fourth century CE is in fact part of a larger codex including material from the biblical books of Daniel and Susannah, and apparently originating in a Christian monastery.⁴ Even for elite and theologically interested Christians during the Theodosian Age and after, the collocation of Christian and Traditionalist materials, or biblical and secular, was no apparent cause for concern.⁵

Apart from being bound together, manuscripts of Theodosian Age scholarship show signs of production by and for Christians, using tools, framing devices, shortcuts, and notational forms known only from Christian scribal practices. Later I discuss a codex of Livy that boasts all of these, along with one copy of Vergil that uses peculiarly Christian formulae for writing the name of the deity, and another which was apparently copied in an Italian scriptorium that produced Traditionalist classics such as the *Aeneid* alongside one of the most exquisite biblical manuscripts to survive from antiquity. Our earliest extant copy of the *Theodosian Code*, too, uses staurograms as binders' marks, and a papyrus with quotations from the jurists Papinian, Ulpian, and Paul employs scribal tools known only from Christian manuscripts.

This chapter investigates manuscripts in which scribes copied non-Christian works using Christian scribal tools. I 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 the scribes of these texts or these texts' users. One main argument of this book is that argumentative tools which were initially devised for internal use in Christian theological disputation came uncoupled from the ideology of their producers. Legal

⁴ Nongbri, *God's Library*, 208–211.

⁵ It is possible that Vegetius was a Christian, though scholars argue the point 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.” Milner, *Vegetius: Epitome of Military Science*, xxxi–xxxvii. Vegetius the person may have been a Christian, but his work is not theological in nature.

scholars, miscellanists, and historians used tools from Christian disputation in a manner that concealed the tools' history. I have argued that during the Theodosian Age argumentative forms such as aggregation and distillation were generalized, designified, and reused. Manuscripts from the Theodosian Age show that originally Christian scribal tools such as *nomina sacra* and even peculiarly Christian symbols such as christograms did not long remain uniquely Christian. Scholastic exchange did not occur solely in the heady, refined space of argumentative forms. It also happened on the space of the page. The generalization of originally Christian scribal tools, and their reuse in works of no obvious theological import, is another important aspect of Christianization in the Theodosian Age that can help us to describe what it means for a society to "become Christian" without recourse to spiritual renewal, moral change, or demographic flux.

NOMINA SACRA AND NOMINA VULGARIA

Ancient scribes employed a 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.⁶ 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.⁷ The other broad category comprises "supralineate

⁶ 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 29.

⁷ "Non," for instance, becomes *N̄*. Supralineate abbreviations show up somewhat earlier 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· Καλλιππιανόν· 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 Michael 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,

contractions,” in which letters are omitted from the middle of a word that remains inflected and identified with a supralinear stroke.⁸

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 nineteenth century, and a number of studies have followed up on Traube’s conclusions about the Jewish origin of this scribal practice and its expression in early Christian manuscripts.⁹ Arthur E. Gordon traced the use of supralineate abbreviations and supralineate contractions in the *CIL*,¹⁰ 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.”¹¹ The earliest securely dated use of *nomina sacra* in a literary context occurs in P. Dura 24,¹² and they arrive in the Latin epigraphic record only with an epigram of Damasus from the late fourth century.¹³

Abbreviations in Greek Inscriptions (the Near East, 200 B.C.–A.D. 1100), 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 CE, to which this inscription is dated.

⁸ In 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 D̄I in the genitive, or D̄O in the dative.

⁹ Traube, *Nomina Sacra: Versuch einer Geschichte der christlichen Kurzung*. See especially pp. 133ff. See also Paap, *Nomina Sacra in the Greek Papyri* and Hurtado, “The Origin of the *Nomina Sacra*: A Proposal.”

¹⁰ 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.

¹¹ 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. Gordon, *Supralineate Abbreviations*, 109.

¹² 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 232–233, as well, though without a supralinear stroke. Rostovtzeff and Baur, *Excavations at Dura-Europos, Report for 1931/2*, 241. Per Avi-Yonah, “[s]uch unmarked *nomina sacra* continue to crop up in the course of centuries, but they probably represent little more than individual freaks.” Avi-Yonah, *Abbreviations*, 27. Other biblical papyri paleographically dated to the second and third centuries use the technology as well, though their dates are less secure.

¹³ *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

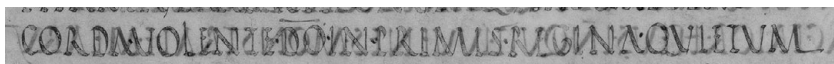


FIGURE 21. Vat. Lat. 3867, 86r. *Aeneid* 1.303, where $\overline{DO}$ expands to *d(e)o* in *corda volente deo; in primus regina quietum*.

Yet, during the Theodosian Age and immediately thereafter, this markedly Christian scribal practice found its way into wider usage among nontheological works, as did the practice of contracting words such as *deus* when the term refers transparently to traditional gods of Rome and not to the Christian god. The so-called *Roman Vergil* dates paleographically to the later fifth century: perhaps as early as the late Theodosian Age, though more likely in the decades following.¹⁴ It is among the most beautiful illustrated manuscripts of Late Antiquity, and along with the *Vatican Vergil* is one of only two illustrated manuscripts to survive of antiquity's most famous poet.¹⁵ 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 Meliboe, a g(o)d has created this leisure for us" (Figure 21).¹⁶

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; when the copyist transcribed the next line of their 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 single scribe use a *nomen sacrum*.¹⁷ In his own analysis of this strange usage, Traube

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*: $\overline{\Theta\Omega}$ for $\Theta\epsilon\omega$ in W. H. Waddington and Philippe Le Bas 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 pagan and the Christian. The contractions in both periods differ in quantity, technique, and subject-matter." Avi-Yonah, *Abbreviations*, 25–26.

¹⁴ Vat. Lat. 3867 (TM 62975). See Lowe *CLA* 1.19, Seider, "Beiträge zur Geschichte und Paläographie der antiken Vergilhandschriften," 144–147 for an analysis of the paleography, as well as Steffens, *Paléographie latine*, pl. 19.

¹⁵ Vat. Lat. 3225 (TM 65873) On the relationship between the text and the illustration in this codex see Weitmann, "Bilder als Vergegenwärtigung des Textes," 2–4.

¹⁶ *O Meliboe, d(eu)s nobis haec otia fecit*. Vergil, *Eclogue* 1.6.

¹⁷ Other places where they 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*.

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.”¹⁸

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. Because it seems certain 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 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 that presence or absence from a Church building did not reveal interesting information about an individual’s beliefs.¹⁹ Instead, I suggest and argue at length later, this manuscript was produced in an environment so thoroughly Christianized that scribal practices that were once the strict purview of Christian texts had become a generalized tool of the trade.²⁰

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.

¹⁸ Traube, “Das Alter des Codex Romanus des Virgil,” 312.

¹⁹ Reported in Augustine, *Confessions* 8.2(4), and discussed in Chapter 1.

²⁰ 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*. See McCormick, *Five Hundred Unknown Glosses from the Palatine Virgil: The Vatican Library, MS. Pal. Lat. 1631*, 3n7, and Pratesi, “Nuove divagazioni per uno studio della scrittura capitale. I ‘codices Vergiliani antiquiores,’” 19–28. Pratesi argues for a sixth-century date for the *Roman Vergil* on the basis of its use of *nomina sacra*, asserting that the scribal tool indicates that “the codex cannot be assigned to the fourth or even the fifth century” (22) – an unconvincing argument given that it is based on no data whatsoever. Eduard Norden argued for a late fifth-century *terminus post quem* based on an interpolation apparently attributable to Priscian, but the intriguing suggestion remains unconvincing because it is based again on assertions which have no obvious data to support them, for instance that “a few decades must have passed” between Priscian and the copying of the manuscript in which his influence is apparent. Norden, “Das Alter des Codex Romanus Vergils,” 473–474.

Literature is not the only domain where Christian scribal tools were reused during the Theodosian Age. There is, in fact, a juristic papyrus from the period 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.²¹ The 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.²²

The juristic opinions included were previously lost to posterity; they were not transmitted in the *Digest* or any of the late antique compilations.²³ For this reason, the legal content of the papyrus has received the

²¹ 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 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: Subliterary texts and Byzantine documents from Egypt*, 11–23, and most recently in Nasti, *Papyrus Hauniensis de legatis et fideicommissis: pars prior*: PHaun.III 45 recto + CPL 73 A e B recto. 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.

²² On the basis of a clear paleographic connection with *P. Rylands* III 472, Serena Ammirati suggests a date toward the end of the fourth century. Ammirati, *Sul libro latino antico*, 87. Her assessment agrees with that of Lowe (*CLA* Supplement 1756), and Nasti, “Nuovi dati da PHaun. III 45 + CPL 73 A, B e la codificazione giustiniana: Dissentiones prudentium e l’opera dei compilatori in tema di alienazione della res legata,” 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 is 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 antejustiniani*, 3.285–296) suggests that the *notae* indeed continued to circulate; Liebs’s *terminus ante quem* is hardly compelling, and the argument was succinctly put to rest already before Liebs’s edition by D’Ippolito and Nasti, “Diritto e papiri: nuovi pareri giurisprudenziali da P. Haun. III 45,” 154. Liebs, “P.Haun. 45 + P.Festschr.Schulz Bruchstücke einer Schrift eines römischen Juristen der Generation nach Ulpian.”

²³ Arangio-Ruiz, “Frammenti,” 6. See also Liebs, “P.Haun. 45,” 489–490.

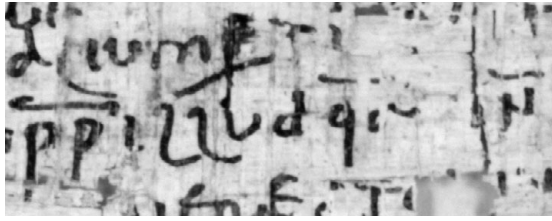


FIGURE 22. *P. Haun III 45*, selection from lines 85 and 86, infrared photograph. In the center of the upper line we see a P with an ascending line across the descender indicating *per*, and on the second line *PP*, *QA* and *N* for *propter*, *quia*, and *non*, respectively. Line numbers are according to Larsen and Bülow-Jacobsen. Photos courtesy Adam Bülow-Jacobsen.

vast majority of critical attention, and its form and scribal peculiarities have gone largely unremarked upon.

The scribal peculiarities of this papyrus are astonishing. The manuscript was likely that of a scholar,²⁴ and incorporates both traditional supralineate abbreviations, for instance *PP* for *propter*, *QA* for *quia*, and *N* for *non*, as well as other typical juristic abbreviations such as P with an ascending stroke across the descender for *per* (Figure 22).²⁵ 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.²⁶ It contains, in other words, the type of scribal tool that papyrologists typically cluster under the heading *nomina sacra*. Supralineate contractions in this papyrus has gone largely

²⁴ Given the *Law of Citations*, this papyrus is unlikely to have been intended as a juristic manual for practice, and therefore must be scholastic. 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.

²⁵ Steffens catalogued the typical juristic abbreviations (*notae iuris*) in *Paléographie latine*, XXXIII. For *fideicommissorum* he lists *FIDC* – that is, an abbreviation and not a contraction. Steffens’s table is handwritten 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 *SSCSDTV* 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.

²⁶ Further discussion of supralineate abbreviations and contractions in juristic manuscripts can be found in Schiapparelli, “Note paleografiche: Segni tachigrafici nelle Notae Ivris,” 267–272.

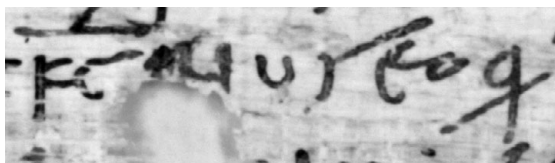


FIGURE 23. *P. Haun* III 45, selection from line 65, infrared photograph. The line reads $\overline{FC}RIUS EO Q$, with a supralinear stroke over the FC and an ascending stroke through the descender of the Q . Expanded, the phrase is *f(idei)c(ommissa)rius eo q(uod)*.

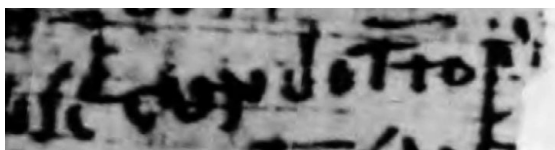


FIGURE 24. *CPL* 73 *B recto*, detail reading $\overline{SECUNDO T}TO RE$. From line 70 as published in *Nasti*, corresponding to the lacuna in line 60 of *Larsen and Bülow-Jacobsen*. This fragment is in the *Arangio-Ruiz* collection and the photo is from *CLA Supplement* 1756.

unnoticed by the broader public because no editor – and there have been five – offers anything but the most cursory remarks on them.²⁷ Nevertheless, there they are. Consider, for instance, Figure 23, in which the scribe of this papyrus abbreviates *fideicommissarius* as $\overline{FC}RIUS$. 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 24, for instance, shows the contraction of *testamentum* inflected in the ablative to read $\overline{TT}(AMENT)O$.

This papyrus presents the earliest example of supralineate contractions in a juristic context (Figures 25 and 26). In fact, it presents the earliest use of supralineate contractions in any Latin manuscript that does not present

²⁷ 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 juris*), 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*, 34–35) 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.

Manuscript Reading	Expansion	Lines attested
$\overline{AT}$	a(u)t(em)	37
$\overline{D}$	d(iuum)	40
$\overline{E}$	e(st)	2, 16
$\overline{FC}$	f(idei)c(omissum)	38, 39, 45, 46
$\overline{MGE}$	m(a)g(is) e(st)	70
$\overline{N}$	n(on)	24, 44, 45, 55, 86
$\overline{P}$	p(rae)	3
$\overline{PP}$	p(ro)p(ter)	38, 86
$\overline{POMP}$	Pomp(onius)	15
$\overline{QD}$	q(ui)d(em)	96
$\overline{TM}$	t(a)m(en)	85
$\overline{TMN}$	t(a)m(en)	70
$\overline{U}$	u(el)	5, 13, 18, 19, 44

FIGURE 2.5. Supralineate abbreviations in *P. Haun* III 45 identified by Larsen and Bülow-Jacobsen. Line numbers follow their edition.²⁸

explicitly Christian content. 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.²⁹ Serena Ammirati argues persuasively that these 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

²⁸ Nasti, *Papyrus Hauniensis*, 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 $\overline{QRIT}$. This 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 $\overline{QRITUR}$.

²⁹ 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* (needless to say, 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 Ammirati, “Per una storia del libro latino antico,” 72.

Manuscript Reading	Expansion	Lines attested
EE	e(ss)e	45
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 26. Supralineate contractions in *P. Haun* III 45 identified by Larsen and Bülow-Jacobsen. Line numbers follow their edition.

content belong to the same professional category, it is reasonable to expect that these books would share formal characteristics.”³⁰

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 200 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 Christian 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.³¹ The distinction that I draw here,

³⁰ Ibid.

³¹ Franz Steffens too suggested that the use of supralineate contracted forms (and 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. He simply did not have the manuscript evidence to support his claim, which is now available in *P. Haun* III 45. Steffens, *Paléographie latine*, xxxiii.

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 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 scribe implemented a tool invented for biblical manuscripts 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* mentioned earlier, appropriated a tool that was once the solely purview of theological works and applied it in a new context with new aims.

A late ancient reader may well have approached these manuscripts with the same historical incredulity expressed by Traube and others regarding the use of a “Christian” tool in a “Pagan” context. An ancient reader 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 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 nontheological 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 nontheological manuscripts, scribes began to use tools that were forged in scriptural fires and they applied these tools without obvious implication. The fact that *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 nontheological contexts is interesting if it is value laden – if the producers of texts intend to “Christianize” manuscripts of non-Christian texts. But it is perhaps more interesting if the importation of *nomina sacra*, and the other symbols of Christianity discussed later, are employed completely devoid of ideological meaning.

By way of analogy, imagine that the fascist era in Italy had lasted as long as the period between the conversion of Constantine and the end of

the Theodosian Dynasty – around 140 years, from 1912 to 2057 – rather than the twenty-one years that it lasted in reality. 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 the long-dead Mussolini's policies. Instead, the most natural interpretation would be that the sign of the fasces, which was reintroduced a 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 such as the Constantinian staurogram, as well as scribal tools such as *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, a late fifth-century copy of the grammatical work of (pseudo-)Probus.³² The Proban tradition was already complex in Late Antiquity, and at least three different hands supply additions in the margins of this manuscript. A number of markers are used in late ancient manuscripts to indicate the place where text should be inserted, and the text that should be inserted. Often, *hs* is inserted in line with the base text, indicating the location of an insertion, and *hd* is written in the margin next to the supplementary material. One corrector of Vat. Urb. Lat. 1154 uses the *hs/hd* method elsewhere in the manuscript,³³ but on 20v, they chose a somewhat different tack; the corrector inserted *hs* in a half-uncial hand contemporary with that of the base text, but instead of the correlating *hd* in the margin, this scribe

³² TM 66216. Date of hands following Lowe *CLA* 1.117. Edition 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 overview of Proban manuscripts see primarily De Nonno, "I codici grammaticali latini d'età tardoantica: osservazioni e considerazioni," 149–164, as well as Zetzel, *Critics, Compilers, and Commentators: An Introduction to Roman Philology, 200 BCE–800 CE*, 313–314.

³³ See, for instance, 36r. It is unclear what *hd* and *hs* stand for. Lowe suggests *h(ic) d(eest)* and *h(ic) s(uuple)*, but other reasonable suggestions have been made. See Lowe, "The Oldest Omission Signs in Latin Manuscripts: Their Origin and Significance."

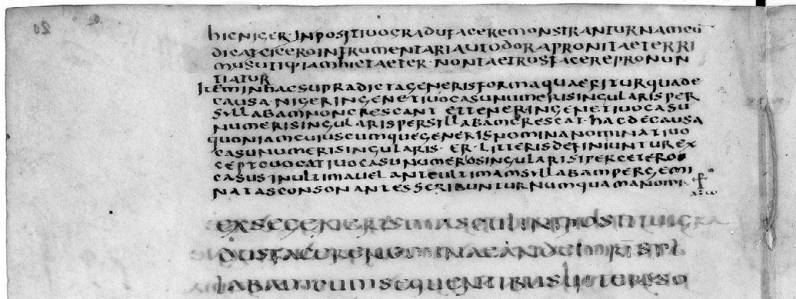


FIGURE 27. Vat. Urb. Lat. 1154, 20v. The staurogram is repeated as well in the bottom margin to indicate that the lower text continues what is above.

chose a staurogram, with an alpha and omega underneath, to alert the reader of this grammar that an insertion should be made (Figure 27).

The use of the same Latin uncial for the text of the correction as well as the alpha of “α:ω” (along with the colon in identical dark brown ink) make clear that this corrector’s sign belongs with the marginal note, rather than having been added subsequently. In other words, here we have perhaps the most banal use of the staurogram surviving from antiquity: pointing a reader to a textual variant in a grammatical treatise. I return to this point later.

In the Roman context, christograms, of which the staurogram is one type, were 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. This category of scribal symbols that overlaps with *nomina sacra* came to symbolize Christ, Christian faith, and eventually, Constantinian dominance.³⁴ Early on the symbol was most common on dynastic coinage. For instance RIC VII Constantinople 19 depicts Constantine laureate on the obverse and on the reverse a military standard, topped with a christogram, and the legend SPES PUBLIC (“the safety of the republic”). This coin was struck in 327 in a variety of denominations and seems to refer to Constantine’s

³⁴ The staurogram appears as an imperial symbol first in Lactantius, *On the Death of the Persecutors* 44. Noel Lenski overviews Constantine’s program of visual propaganda, and the relationship between literary and material sources, in *Constantine and the Cities*, 67–83.

victory over Licinius and assumption of sole rule over the East and the West.

The staurogram also functions as a part of a *nomen sacrum*, and appears supralineate in some early New Testament manuscripts including a fourth-century codex containing the Gospels according to Luke and John.³⁵ It was a potent enough symbol to be a significant part of Constantine's program of visual propaganda, and it continued to appear on coinage throughout the Theodosian Age to symbolize the orthodox Christianity of the regent. Its use across media from manuscripts to coins indicates the ubiquity of the staurogram as a symbol, but it does not indicate how that symbol was used or what it meant: the insertion which it signals in Vat. Urb. Lat. 1154 has no dynastic, military, or theological valance whatsoever. It is a rather bland grammatical note.

Images of the goddess Victoria succumbed to a similar process of resignification in the Theodosian Age. 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. Like the Constantinian coin, from some sixty years before, the legend reads SALUS REIPUBLICAE ("the health of the republic"). Images of Victoria signaled Roman might and subduing of foreign peoples since at least the time of Augustus, when a statue and altar for the god were installed in the Senate *curia*. Despite a few brief removals, the altar remained in the Roman senate chambers well past 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.³⁶

³⁵ Papyrus Hanna 1 Mater Vaterbi, 1B.11v (TM 61743). At *Luke* 14:27 this papyrus records the word ΣΤΑΥΡΟΝ with a tau-rho ligature that looks like a person on a cross, and a supralinear stroke indicating the *nomen sacrum*. Dating according to Nongbri, *God's Library*, 202. The tau-rho ligature is not attested first in Christian materials, as argued by Hurtado, *The Earliest Christian Artifacts: Manuscripts and Christian Origins*, 135–146.

³⁶ Constantius II requested that the altar be removed from the *curia* in preparation for his visit in 357, though according to Symmachus, Constantius's removal of the altar "did not stand good for long." Symmachus, *Relatio* 3. Most commentators assume that the altar was returned as part of Julian's reforms, though I've long been a proponent of the historiographic principle that, all things being equal, the funniest option is the best. As such I follow Richard Klein in supposing that the altar was quietly replaced after Constantius's visit to Rome concluded. Klein, *Der Streit um den Victoriaaltar*, 113. The altar was removed briefly by the emperor Gratian in 382, and according to Paulinus of Milan, it was replaced in 392 by Euenius. Paulinus, *The Life of Saint Ambrose* 26. An oration of Claudian indicates the continued presence of Victoria's cult statue and altar in

Many regarded the staurogram in a similar way, though the change occurred on a significantly shorter timescale. By the time of the Theodosian empire, the staurogram could be used to signify the Christian deity's protection of the "health of the republic," but it could also be used to indicate the presence of a textual variant in a grammatical treatise. As I read the evidence, a 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 indicates 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, had expanded to encompass any number of applications that have neither imperial nor theological relevance.

The staurogram was also reused as a multipurpose symbol in the Greek East of the early sixth century. I wrote in Chapter 6 about the literary qualities of the so-called *Summaria antiqua* that fills out the margins of Vat. Reg. Lat. 886. The scriptorium that produced this manuscript of the *Theodosian Code*, however, repays further attention. 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 the same symbol – a staurogram – to indicate the beginning of each gathering, as is visible in the upper left corner of 17r (Figure 19), and throughout the manuscript: on 9r, 25r, 33r, 41r, 47r, 55r, 61r, 69r, 77r, 84r, 92r, 100r, 108r, 115r, 123r, etc.

None of these examples appear to be an ancient attempt to cast otherwise dry, pre-Christian scholarship within a Christian frame. Rather, in these manuscripts we see scribes reusing symbols that originated in Christian contexts as ideological blank slates. The fact that a late fifth-century scribe could use a staurogram as a corrector's symbol or a binder's mark suggests nothing credible about the faith of the scribe (or that of a reader), but such uses say a great deal about the culture within which these texts were transcribed and read. The signs are not innocuous or irrelevant pious ephemera. The recasting of even such tedium as marginal notes quite literally under the rubric of Christian symbolism indicates the thoroughgoing extent to which an ideology had been generalized through the remobilization of its operative symbols. 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

the senate chambers at least to the year 404. Claudian, *Panegyric on the Sixth Consulship of Honorius Augustus* 597–602.

had lost all inherent meaning. These examples demonstrate that Isidore was not remarking on a novelty when he offers to his reader, “Chrisomon: this is placed according to the interest of the individual to mark something out.”³⁷

Analysis of such clear instances of reuse – a sort of scribal spoliation – may help to clarify the scribal and ideological context in other, less clear cases. Vienna Österreichische Nationalbibliothek Latin 15, for instance, is an early fifth-century deluxe codex of Livy’s *History of Rome* that uses a supralineate $\overline{PR}$ to stand for various inflected forms of *populus romanus*.³⁸ This contraction is not known from the epigraphic corpus,³⁹ and the other known copy of this text from the Theodosian Age uses the same abbreviation but without supralinear strokes.⁴⁰ Even within the same section of text, the scribe indicates the abbreviation sometimes with a supralinear stroke, in the manner of a *nomen sacrum*, and sometimes without (Figure 28).

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 possibly 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. It is of course possible that this scribe implements an epigraphic practice when employing supralineate $\overline{PR}$, but it is not probable: the abbreviation is otherwise unattested. 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 – $\overline{PR}$

³⁷ Isidore of Seville, *Etymologies* 1.21.22. Text Lindsay.

³⁸ TM 67658. Dating Lowe *CLA* 10.1472. See also 147v, with supralineate $\overline{PR}$ for *populi romani* in 45.1, 159r which uses $\overline{PR}$ supralineate for *populo romano* in 45.14, and 162v which uses $\overline{PR}$ supralineate for *populo romano* in 45.18.

³⁹ See Gordon, *Supralineate Abbreviations*, s.v. “P.”

⁴⁰ Bamberg Staatliche Bibliothek Class. 35a (TM 67175). The manuscript uses $\overline{PL}$ for *populus romanus* as well as $\overline{TR PL}$ for *tribunus plebis*. Paleographic analysis in notes in Seider, *Pälographie der lateinischen Papyri*, vol. 2.1, pp. 138–142. Further fragments of this manuscript were found reused to mend a medieval biblical manuscript, published in 2000 by Matthias Tischler, and the pattern holds. Tischler, “Neue Fragmente der spätantiken Bamberger Livius-Handschrift (*CLA* VIII. 1028 Addenda).”

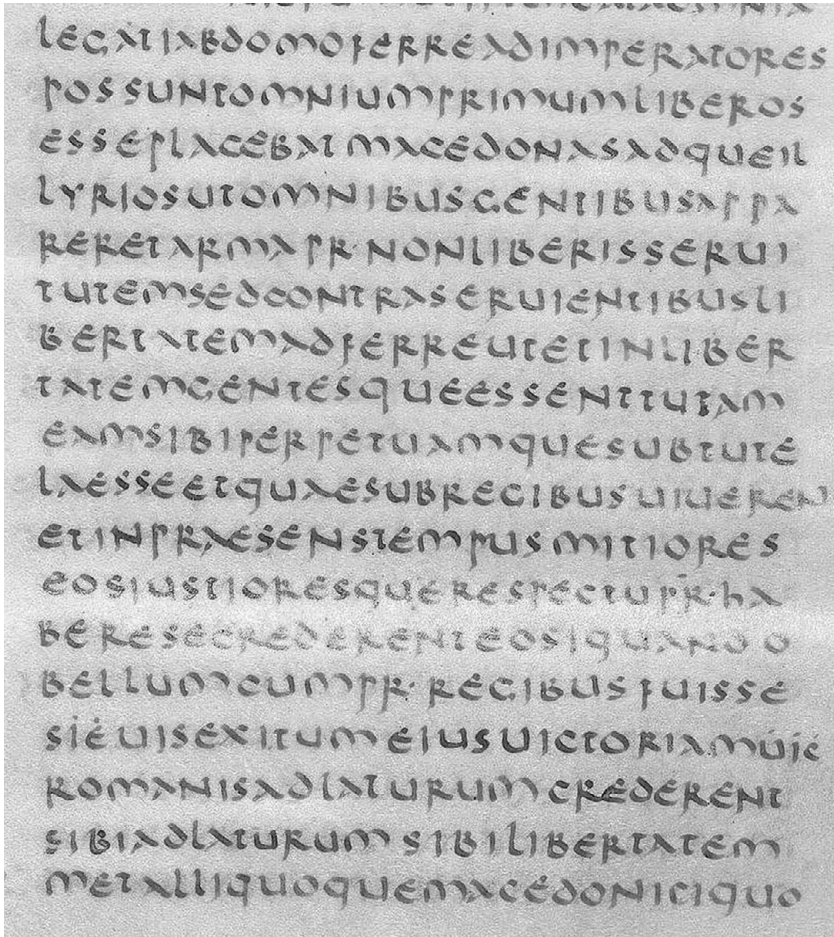


FIGURE 28. Vienna, Österreichische Nationalbibliothek Latin cod. 15, 162r. (TM 67658). From Livy, *History of Rome* 45.28. The PR abbreviation is used three times in this section, with only one instance supralineate, on the seventh line from the bottom.

supralineate – to indicate *presbutero* in a copy of Cyprian's *Letter* 54 (Figure 29).⁴¹

In line 18 of the right column of this leaf of Cyprian's letter, the scribe used XPE supralineate to indicate *Christus*, indicating their familiarity with *nomina sacra*. Thus, the same scribe's use of supralineate PR in line

⁴¹ Dating Lowe *CLA* 1 (p. 18). See also the initial publication by Turner, "A Newly Discovered Leaf of a Fifth-Century Ms of St. Cyprian."

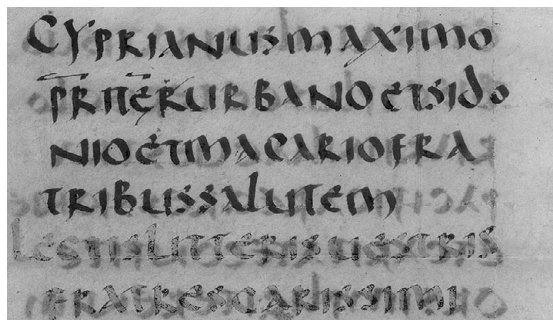


FIGURE 29. Vat. Lat. 10959, 1r. (TM 66155). Incipit of Cyprian *Letter* 54 with *PR* supralineate to indicate *presbitero* as well as *ITE* superlineate to indicate *ite(m)*. The supralinear stroke, in other words, is used for different purposes in successive words. The first indicates the contraction, while the second indicates a suppressed *M*, as is common in fourth- and fifth-century majuscule 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* at the end of *laetatu(m)*.

two of the left column should be understood as a reuse of that same scribal tool, even though *presbiteros* is not a traditional *nomen sacrum*. It is reasonable to assume that the scribe copying Cyprian used a supralinear stroke as a scribal tool to indicate, simply, “this is a contraction.” My argument is that the same assumption is reasonable in the terms of the roughly contemporary scribe copying Livy. In both manuscripts new contractions are indicated with the same tool, and yet scholars are only comfortable calling one a nonstandard *nomen sacrum*, while the other is simply a scribal oddity. A responsible historical methodology requires us to consider that these coincidences may not be accidental, and that they may say something about the ideological context in which each text was transcribed even though they do not speak to the ideology of the scribes themselves.

Such correspondences in scribal practice, and in the use of seemingly “Christian” tools in nontheological contexts, are so common in fifth-century manuscripts that the trend cannot be reduced to training or local peculiarities. A juristic fragment in Berlin dated between the mid-fourth and mid-fifth century uses *PR* supralineate to indicate *praetor*.⁴² It is

⁴² P. Berlin 6757 (TM 62941). Dating Lowe *CLA* 8.1033, Seider, *Paläographie der lateinischen Papyri*, 2.2.61–65, Ammirati, “Per una storia del libro antico,” 65. For the text and philological commentary see Krüger, “Die Berliner Fragmente vorjustinianischer Rechtsquellen,” with an updated text and legal analysis in Gian Luigi Falchi, “Sui ‘Fragmenta berolinensia’ incerti auctoris ‘de iudiciis.’”

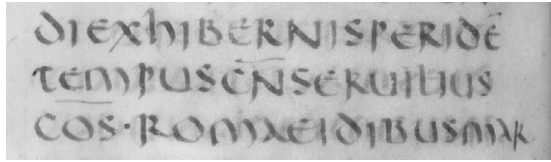


FIGURE 30. Paris, Bibliothèque Nationale Lat. 5730, 22v, “Codex Puteanus.” (Source gallica.bnf.fr / BnF.) Note the supralinear abbreviations for “Gaius” (line 2) and “consul” (line 3), as well as a supralinear stroke at the end of line 1 noting the suppressed final M of “idem.” The text is Livy *From the Founding of the City* 22.

unclear whether this supralineate $\overline{PR}$ is intended as a contracted or an abbreviated form – that is, whether the $\overline{PR}$ stands for *pr(etor)* or *p(reto)* *r*. If the former, then there is some classical 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 Theodosian reader of this text might reasonably come to either conclusion.

Similarly, Codex Puteanus uses a supralinear stroke over CN for *Gaius* (22v, Figure 30), COS for *consul* (22v and very often elsewhere, Figure 30), M for *Marcus* (29r), PR for *praetorum* (31v), and SC for *senatus consultis* (31v).⁴³ The four distinct uses of supralineate PR mentioned here alone suggest that what we are dealing with is not a standardized set of abbreviations but rather that the supralinear stroke is deployed as a common tool: an aid to readers whom the scribe expected to be familiar with such indications.⁴⁴

Examples could be multiplied almost $\overline{AI}$. Among the closest paleographic parallels to Codex Puteanus is the Lavanttal Ambrose, discussed earlier. Clear links are visible among the two manuscripts in paratextual features (running titles, binder’s marks) and ligatures (Figures 31–34). Given the overwhelming similarities in script, paratext, and codicology, it is near certain that these manuscripts come from the same period, and perhaps from the same scriptorium.⁴⁵ Both are

⁴³ Paris, Bibliothèque Nationale Lat. 5730 (TM 66692).

⁴⁴ Standardized abbreviation lists remain, though the most extensive is too late to be of much use in this context: the *Notae Vaticanae* (Vatican Reg. Lat. 1128), where eight folia list in alphabetical order the entire corpus of *notae iuris* known in the ninth century. Edited by Mommsen in Keil (ed.), *Grammatici Latini*, 4.288–300.

⁴⁵ Both manuscripts 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.

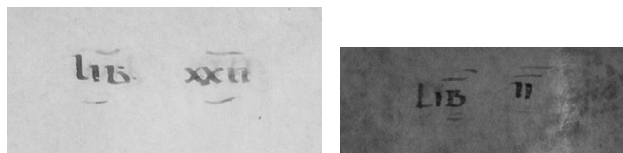


FIGURE 31. Running titles. Paris, Bibliothèque Nationale Lat. 5730, 28r (left). (Source gallica.bnf.fr / BnF.) Stiftsbibliothek Lavanttal 1, 54v (right).

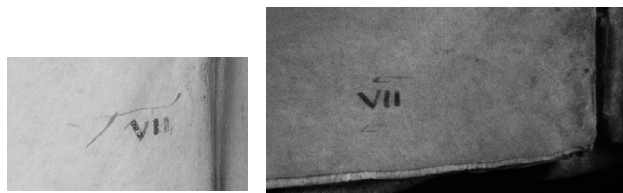


FIGURE 32. Binder's marks. Paris, Bibliothèque Nationale Lat. 5730, 25v (left). (Source gallica.bnf.fr / BnF.) Stiftsbibliothek Lavanttal 1, 54v (right).

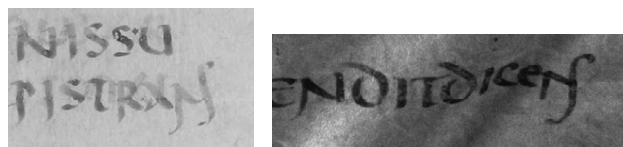


FIGURE 33. NS ligature. Paris, Bibliothèque Nationale Lat. 5730, 2v (left). (Source gallica.bnf.fr / BnF.) Stiftsbibliothek Lavanttal 1, 8v (right).

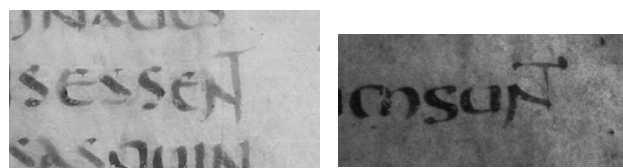


FIGURE 34. NT ligature. Paris, Bibliothèque Nationale Lat. 5730, 9r (left). (Source gallica.bnf.fr / BnF.) Stiftsbibliothek Lavanttal 1, 7r (right).

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.

The phenomenon is not merely literary either, nor is it solely found in manuscripts. As I mentioned earlier, supralineate abbreviations arrive remarkably late as a standard tool in the epigraphic record, and as Nicoletta Giovè Marchioli has demonstrated, there is a surprisingly close connection in scribal habits between epigraphic and literary materials, particularly when it comes to abbreviations.⁴⁶ In the classical period a supralinear stroke was typically used only to indicate numbers, and occasionally (though inconsistently) consular dates.⁴⁷ By the mid-fifth century, however, supralinear strokes were used to identify even the most common contractions in public inscriptions. For instance, a dedicatory inscription from 468/469 for Flavius Eugenius Asellus records only three lines but boasts four supralinear strokes, indicating *v(ir) c(larissimus)*, *praef(ectus) urb(i)*, and *v(ice) s(acra) i(udicans)*.⁴⁸ By the early sixth century, these indications were used even in funerary contexts. For instance a funerary inscription from June 23, 525 CE for a certain Maxima, “enslaved attendant of Christ (*ancilla Cristi*),” uses supralinear strokes in every possible place: eight times in an unimposing inscription of seven lines.⁴⁹ One supralinear stroke, carved over the word “in” on line 7, appears to be completely extraneous – so much so that Ernst Diehl excluded it from his edition of the text. Perhaps the scribe got carried away with all the abbreviating.

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 both 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

⁴⁶ Marchioli, *Alle origini delle abbreviature latine: una prima ricognizione (I secolo a.C.–IV secolo d.C.)*, 15–16.

⁴⁷ See, for instance, Musei Vaticani 216.0.0, from 221, which abbreviates *consulibus* as COS supralineate in line 6, but not in line 16.

⁴⁸ CIL VI 1668 (Terme di Diocleziano VII.10). Asellus PLRE 2 s.v. Asellus 2. For the inscription see Claudio Novello, “VII, 10. Un restauro del Prefetto Urbano.”

⁴⁹ ILCV 1469. For the inscription see Novello, “IX, 34. Iscrizione di Maxima.” Supralinear abbreviations occur in lines 3 (*ann(os), pl(us) m(inus), d(e)p(osita), kal(endas)*), 4 (*v(iro) c(larissimus), cons(ule)*), 6 (*ann(os), m(enses)*), and 7 (*in* with a supralinear stroke for an unknown purpose, probably a mistake).

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 which scholars typically class differently because of the content of their leaves. The so-called *Vatican Vergil* is a deluxe manuscript from the late fourth or early fifth century that contains portions of the *Georgics* and *Aeneid*.⁵⁰ The seventy-six surviving leaves have been the subject of hundreds of paleographic, text critical, and art historical studies.⁵¹ 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*.⁵²

The *Vatican Vergil* is not complete: it originally contained the entirety of Vergil's work in what must have been around 440 folia like its cousin the *Roman Vergil* discussed earlier, and it is written in "an old type of rustic capital."⁵³ 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 they knew⁵⁴), but based on the text alone little can be said about the intellectual or ideological environment in which the scribe worked. More remarkable are the fifty surviving illustrations, which comprise two-thirds of many pages, and in places take up entire leaves of the codex. David H. Wright's reconstruction suggests that originally there must have been approximately 280 illustrations, and it is the art that has been used most often to situate the work. Commentators have focused on these illustrations to make

⁵⁰ Vatican Lat. 3225 (TM 65873).

⁵¹ See chiefly Pellegrin, *Les manuscrits classiques latins de la Bibliothèque vaticane: catalogue*, 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*; and Wright, *The Vatican Vergil: A Masterpiece of Late Antique Art*. A comprehensive list is not available, but a bibliography for most of the major studies is listed at <https://digi.vatlib.it/mss/detail/Vat.lat.3225>.

⁵² Berlin Staatsbibliothek Ms. Theol. Lat. 485 + Quedlinburg Stiftskirche (unnumbered), TM 67208.

⁵³ Lowe *CLA* 1.11.

⁵⁴ 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.

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 containing many scenes of pagan sacrifice."⁵⁵ Unsurprisingly, given his dating of this text to "the time around 400, meaning probably within two decades on either side of that date,"⁵⁶ Wright presumes that this text should be understood as arising under the patronage of "an associate of Quintus Aurelius Symmachus," the renowned Roman Traditionalist of the Theodosian Age, and proposes that the most reasonable understanding of the context in which this codex was produced is the flourishing intellectual life at Rome around 400, specifically in the absence of significant Christian voices at Rome when compared with the rest of the empire.⁵⁷ "The power of the church was growing rapidly," he writes, "but the most important Christian intellectuals 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."⁵⁸

Wright's contention, that the 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 a dramatically circumscribed group of clerics and governmental officers.⁵⁹ In Wright's work, as well as studies by other specialists on

⁵⁵ Ibid., 101–102.

⁵⁶ 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, i.e. a deluxe literary production lacking dated colophons.

⁵⁷ Ibid., 102. One wonders whether there hasn't been some bit of attraction between the paleographic analysis and the proposed historical association with Symmachus. Agati, too, claims that the manuscript "is very probably a Roman product of the pagan circle of Symmachus, Servius, and Macrobius." Agati, *The Manuscript Book: Compendium of Codicology*, 314. As discussed earlier, Macrobius does not belong to this generation, but to the generation following.

⁵⁸ Wright, *The Vatican Vergil*, 101.

⁵⁹ Shaw, "Augustine and Men of Imperial Power."

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.⁶⁰ One thinks of Macrobius, who was likely Praetorian Prefect in Rome in 430, or Vegetius, who was a *vir inlustris comes* – both of whom have been discussed in this book already.⁶¹ Vergil was so untainted by paganism for the Theodosian Age Christians of Cuicul that they constructed a magnificent baptistry to serve the metropolitan basilica, complete with a quote from *Eclogue* 3 at its center, over which initiates received the Christian rite of baptism. The baptismal fount reads [*Gentes t*] *empus erit omnes in fonte [lavari]* – “There will come a time for all people to be washed in the fount.”⁶² North African Christians baptized Vergil, quite literally.

There is no credible reason to think that this copy of Vergil could not be owned or commissioned by a Theodosian Age Christian, and as Inabelle Levin has demonstrated, there is strong reason to think that the object itself was produced in the same scriptorium as produced the *Quedlinburg Itala*, the oldest illustrated biblical manuscript extant.⁶³ The illustrations of this bible share significant stylistic and thematic overlap with both the *Vatican Vergil* as well as with the mosaic cycle found in the nave at the basilica of Santa Maria Maggiore, dated to the papacy of Sixtus III between 432 and 440.⁶⁴ All three of these objects – the bible, the Vergil, and the mosaic cycle – are likely products of the flurry of activity in Rome after the sack of 410. Striking similarities in so many details among the illustrations suggest the manuscripts were also made in Rome, and that they were all products of the same

⁶⁰ Diederich, *Vergil in the Works of St. Ambrose*.

⁶¹ PLRE 2, s.v. “P. Fl. Vegetius Renatus” (p. 763)

⁶² ILAlgérie 2.3 8281 (TM 335172). The line in the *Eclogues* reads . . . *tempus erit omnes in fonte lavari*. Vergil, *Eclogues* 3.97. Text LCL 63. Matthew D. C. Larsen has a deft discussion of the baptistry in “The Real-and-Imagined Biography of a Gospel Manuscript,” 15–18, and Nathan Dennis discusses the inscription briefly in “A Tale of Two Inscriptions,” 29.

⁶³ Levin, *The Quedlinburg Itala: The Oldest Illustrated Biblical Manuscript*, 67–71.

⁶⁴ de Wit, *Die Miniaturen des Vergilius Vaticanus*, 155–156. On the date of the mosaic cycle, see Brenk, *Die frühchristlichen Mosaiken in S. Maria Maggiore zu Rom*, 1–2.

generation.⁶⁵ Whether the *Vatican Vergil* and the *Quedlinburg Itala* were products of the same scriptorium is impossible to say. It is clear, however, 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 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 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 texts so central to many in their social network. We simply don't know. 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 the visual language used. In either case a picture emerges of elite society in which ideology and materiality are separable, even when not always separate; a society in which the tools of scholastic production are influenced by the ideological context, but in which the tools selected by any particular user do not 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, and Chapter 6, investigated the new texts produced by Theodosian Age writers and scribes against the background of the dominant scholastic argumentative 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 began in this period to look so remarkably similar: with shared formats, features, and scribal interventions. Why is it that, for instance, the closest paleographical and

⁶⁵ On the *Quedlinburg Itala*, Inabelle Levin argues persuasively for a Theodosian date. Levin, *The Quedlinburg Itala*, 70.

codicological parallel for a late fourth-century juristic fragment such as *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?⁶⁶ It is because, so far as we can tell, the producers and users of these sort of texts were one and the same.⁶⁷

The fifth century, from which the vast majority of our relevant manuscripts survive, was a time of extraordinary innovation. Approximately 40 percent of all surviving Latin literature produced before the seventh century was composed between 400 and 499 CE.⁶⁸ Literary production flourished, and old tools were reused in new ways in order to accommodate a set of novel scholarly practices. The penetration of peculiarly Christian tools and symbols into nontheological 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 scholarly practices 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 because scholars expected that a good argument was one based in aggregation. Christian tools such as supralineate contractions came to be widely used throughout the literary and documentary landscape even as symbols such as the christogram were rendered ideological blank slates, capable of signifying everything from imperial triumph to textual variation. Professionals trained in Christian scribal practices and iconography took their talents to work on nontheological 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 book-forms and textual features influenced the meanings read into and out from books during the Theodosian Age. Chapter 8 returns to literary evidence, to explore the new meanings that readers found within the pages of these Theodosian productions.

⁶⁶ *P. Ryl. Gr.* 472 (TM 64321).

⁶⁷ Ammirati, “Per una storia del libro latino antico,” 72.

⁶⁸ Data based on wordcounts for dated texts in *Corpus Corporum* (43.6 percent) and the Brepols Latin databases (38.0 percent).

New Meanings

Reading practices have always responded to changing media landscapes, as new formats and writing practices demand novel strategies of understanding. Today, the simple presence of hyperlinks in online news stories results in significantly increased recall of details and assessments of credibility, whether or not the information is credible, in point of fact.¹ Media bandwidth crescendoed over the past thirty years as new and social media were added to 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.² Modern news consumers have adapted: educational institutions teach classes on “media literacy” to young students and even major, multinational corporations have begun to team up with governmental agencies to “empower[] young people with the critical thinking skills necessary in today’s digital age.”³ Changing technology

¹ Wise, Bolls, and Schaefer “Choosing and Reading Online News: How Available Choice Affects Cognitive Processing”; Borah, “The Hyperlinked World: A Look at How the Interactions of News Frames and Hyperlinks Influence News Credibility and Willingness to Seek Information.”

² Schiffrin, Santa-Wood, and De Martino, “Bridging the Gap: Rebuilding Citizen Trust in Media,” 1–2.

³ Burney, “Gov. Phil Murphy Signs a Law to Make N.J. First State to Require Media Literacy for K–12,” *The Philadelphia Inquirer*, January 4, 2023; Apple Newsroom, “Apple Teams up with Media Literacy Programs in the US and Europe,” Apple Press Release, March 19, 2019.

creates new subjects with novel reading strategies calibrated to exigencies of our media environment. We read differently than we once did, and when the social and political landscape shifts again, so too will our practices.

The same can be said of Late Antiquity: social, political, and material shifts necessitated novel interpretive strategies for 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 4 detailed the proliferation of these tools from the margins to the center of the Theodosian scholarly landscape, while Chapters 5, 6, and 7 surveyed the effect of new scholarly practices on the production of manuscripts. My final chapter explores the net effect of the changes described: 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.⁴ As Roger Chartier writes:

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 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.⁵

At stake for the Theodosian reader was not just understanding what the text in front of them said; they must discern the proper response to those words. The issue was rendered acute in a world of aggregation, when materials with different status stand on a single page, side by side. In nearly every instance, a reader must ask, “do these words express something true, and what is their value in relation to other 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 6 detailed simple paratextual strategies through which

⁴ De Certeau, *The Practice of Everyday Life*, 171.

⁵ Chartier, *The Order of Books*, 3.

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. Of course, algorithms for determining truth within multi-vocal literary productions predate the Theodosian Age. Yet the sophistication and widespread implementation of these particular strategies across so many scholastic genres and linguistic divides mark the creation of these new reading strategies as particularly embedded in their intellectual environment. Such strategies were not new, but they were newly necessary across scholastic domains.

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 compiling such works. 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 such as the *Theodosian Code* or official ecclesiastical pronouncements such as the *acta* of councils required certainty about the precise wording of archival sources. If conciliar proceedings held no intellectual weight, there would be little reason to certify the contents of *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. The centrality of documents to conciliar dispute appeared late in the fourth century, and was already firmly seated in 381, at least to judge by Palladius’s exasperated response to Ambrose’s insistent questioning at the Council of Aquileia: “You’re the judge, [on account of the fact that] your note-takers are here! (*Tu iudex es, tui exceptores hic sunt*).”⁶ Conciliar *acta* became theologically

⁶ Text Mansi 3.607.

dispositive only in the period of the Theodosian empire, and in this period we see an institutionalized suspicion of their production and of the production of documents that underlie 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 earlier. In Chapter 4, I argued that scholars produced aggregative works with an eye toward how they were to be used. I argue now that Theodosian readers used these sources with cognizance of – and concern over – 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 my central focus. This chapter presents 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 fragmentary evidence.

RULES FOR DECIDING

The *Theodosian Code* was a universal statement of law, but it was compiled from constitutions that revised earlier legal practice, in most cases. Supervening laws were placed next to the laws they superseded, with little attention paid to the state of law prior to 312 CE. In consequence, the *Theodosian Code* is not a handbook of law; it would be nearly impossible to learn legal praxis simply by reading through the

⁷ On the lack of early conciliar *acta*, especially stemming from the Council of Nicaea, see Battifol, “Les sources de l’histoire du concile de Nicée,” and 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*, 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 a large size. Athanasius, Hilary, and their interlocutors do not wonder at the lack of *acta* from Nicaea, nor do any claim that such a resource would be useful. Before the late fourth century, conciliar *acta* (whether they were notionally available or not) apparently weren’t particularly relevant to theological dispute.

content of the *Code* without the framing offered in works by the great classical jurists: Gaius, Ulpian, Papinian, and the like.⁸ There are, however, some constitutions preserved that deal directly with legal praxis, and with the selection and weighing of sources by lawyers in the Theodosian legal framework. I turn to one such example now.

The so-called “mini-code of 426” was promulgated at Ravenna under the authority of Theodosius II and Valentinian III (though presumably the constitution reflects Galla Placidia’s wishes rather than those of her son Valentinian, who was seven years old at the time), including both reforms to inheritance law and clear statements about the sources of law that could be legitimately cited in court as precedential. The “mini-code” was excerpted into five extant constitutions, of which one survives in the *Theodosian Code* and four survive in the *Justinianic Code*.⁹ 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 issue 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 aggregative scholarship in service of a universalizing knowledge regime. In it we see a clear illustration of both facets of Theodosian Age textual practice under scrutiny in this chapter: 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 Imperial jurists. It reads:

We confirm every writing of Papinian, Paul, Gaius, Ulpian, and Modestinus, such that the same authority shall attend Gaius as Paul, 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

⁸ Little 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* briefly discusses the system of education in Berytus before his reforms.

⁹ *CTh* 1.4.3, *CI* 1.14.2, 1.14.3, 1.19.7, 1.22.5. Matthews argues that it is “clear” that the *Theodosian Code* is incomplete here, and originally contained all of the extant excerpts. Matthews, *Laying down the Law*, 66.

confirmed by a collation of the codices (*propter antiquitatis incertum, codicum collatione firmentur*). (CTh 1.4.3)

The *Law of Citations* authorized the texts of Papinian et al. for use in Roman courts. Codification and authorization of previous authorities, like 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 earlier. However, the law provides for more than just the authorization of certain sources. It imposes a condition as well: juristic opinions shall 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 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, their opinions had been transmitted and commented upon repeatedly in the centuries intervening, and as a result the precise wording had a distinct capacity for instability. 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 involved. The law states that the textual tradition must be confirmed because the resource produced will become a codified authority.¹⁰ This is not a garden variety 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 the project was legal authorization and promulgation of a certain set of juristic texts; it needed to be right.

The *Law of Citations* does not authorize ancient legal opinions themselves but rather certain *texts* produced by ancient legal thinkers, and specifically the original wording of those texts. For instance, Paul’s, Ulpian’s, and Papinian’s opinions are equally authorized, but not Paul’s and Ulpian’s commentaries on Papinian: the law explicitly states that the markup/commentary (*notae*) of Paul and Ulpian on the text of Papinian (*in Papiniani corpus*) are not to be considered valid, precedential opinions. So, while the law orders that opinions of Paul are to be certified and authorized, even his authentic comments on the text of Papinian are not.

¹⁰ 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 Dillon, *The Justice of Constantine: Law, Communication, and Control*, 14.

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, whose opinions are acknowledged as equally authoritative by the very same statute.¹¹ The 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. 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 which has deconstructed the literary institutions of classical society, replacing the consolidated hierarchies of its authors/authorities (*auctores*) with 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 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 is merged with that of biblical criticism, which had refined the methods and forms of reading texts by experimenting with complex questions of authenticity (*Echtheitsfragen*). Moreover, it should be noted that for Christians, writing itself, traditionally considered a lowly technical craft (*opus servile*), becomes a means for moral and spiritual elevation.¹²

Pecere is right to note 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. I hope that this chapter and Chapters 6 and 7 serve to demonstrate that the change, both ideological and material, is not unique to Christian books.

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 law 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,

¹¹ See further discussion in Letteney, "Authenticity and Authority," 41–42 and 53n42.

¹² Pecere, "La tradizione dei testi latini tra IV e V secolo attraverso i libro sottocritici," 25.

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.¹³

Here the *Law of Citations* formulates a set of rules and an order of operations through which a scholar can 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 Papinian, their collective opinion shall be judged as superior.¹⁴ 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 when interpreting legal 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.¹⁵ But these rules are a solution to a problem of the *Law of Citations*’ own making: they were necessary because the law identified, verified, and authorized a contentious and multivocal body of scholarship. The reiteration of these rules just three years later in the *Theodosian Code*, the great high-water mark of post-classical law, suggests either that the depth of the water has been overstated or that the tide of juristic excellence turns on a remarkably short period.

The *Law of Citations* was promulgated three years before the first constitution calling for the creation of the *Theodosian Code*, and it stood as binding juristic praxis. In the context of book one of the *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. Its inclusion in the *Theodosian Code* reiterates the validity of the concerns and the solution reached, but the same problems that attended the “mini-

¹³ *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.

¹⁴ Though, as was mentioned earlier, 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*.

¹⁵ Jones, *The Later Roman Empire: 284–602: A Social Economic and Administrative Survey*, 1.471. See also Watson, *The Law of the Ancient Romans*, 91.

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.

Like Athanasius’s *Concerning the Decrees* some two generations before, the *Minutes of the Roman Senate Concerning the Theodosian Promulgation* (*Gesta Senatus*) is the cover letter for a dossier. As discussed in Chapter 5, 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. The rescript is referred to as 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. (*Gesta Senatus* 7)

At issue here is not solely the initial editorial work involved in producing the *Theodosian Code*, but control over reproduction and distribution networks which are particularly vulnerable to obtrusion. If Valentinian’s rescript appears pessimistic about the conduct of scribes and tradents in legal material, his concern merely reflects what is found in 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*)¹⁶ be 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.¹⁷

The two parallel concerns which animate this chapter – 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 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 the process in different ways, just as the scribes we encountered in Chapter 6 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 what should we do when they disagree?” The multiplicity of solutions speaks to the coherence of the problems introduced by new dominant scholastic practices in the Theodosian Age. I now turn to the multiplicity of those solutions.

¹⁶ The manuscript reading (*notae iuris non adscribantur*) suggests that *notae iuris* should be understood as scholia on the text of the law – similar to Paul and Ulpian’s *notae* on Papinian’s corpus, or notes similar to the *Summaria antiqua codicis Theodosiani* discussed in Chapter 6. Mommsen preferred to emend conjecturally *adscribantur* to *adhibeantur*, as the latter would more clearly refer to *notae iuris* similar to those catalogued by medieval legal scholars, or those in *P. Haun* III 45 (discussed in Chapter 7). 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 Nasti, “Teodosio II, Giustiniano, Isidoro e il divieto di adoperare siglae,” 604–609. To this, one might add that the preceding acclamation requiring all copies 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.

¹⁷ *Gesta Senatus* 5, 3.

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 Hebrew, and sometimes they build theological scaffolds around Greek translations that are not faithful to the original. He laments that "[t]he evangelists – and even our lord and savior, and the apostle Paul, also – bring forward many citations coming from the Old Testament which are not contained in our manuscripts ... but it is clear from this fact that the best copies are those which agree with the authority of the New Testament."¹⁸ That is, the "best copies" from a theological perspective were at odds with the "best copies" from a philological perspective. Jerome could 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 Testament.

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*, composed in the early 390s and intended "to refute the mistakes of those who suspect some fault in the Hebrew scriptures (*qui de libris hebraicis varia suspicantur*), and to correct the faults which appear to abound in the Greek and Latin codices by reference to the [Hebrew] authority."¹⁹ Jerome attests suspicion of the biblical text in the minds and work of others, and is skeptical himself of the veracity of the Greek and Latin translations available on the late fourth-century book market: translations known as the Old Latin and the Septuagint, and

¹⁸ Jerome, *Book of Hebrew Questions on Genesis*. PL 23.985A–B. Translations made with reference to Hayward, *Saint Jerome's Questions on Genesis*, and Rebenich, *Jerome*, 94–96.

¹⁹ PL 23.984B. Jerome intended to write "books of Hebrew questions on all the 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, as noted by Hayward, *Saint Jerome's Questions on Genesis*, 92.

those by Josephus, Theodotion, Aquilia, Symmachus, and Origen. In cases of faulty transmission or imprecise 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 6 I detailed Jerome’s aversion to offering a single, final, authoritative version of the scriptural truth. Like many adherents of the late fourth-century version of Nicene orthodoxy, Jerome thought that scripture and tradition dually undergird the final statement of truth found in the Nicene Creed even when they are faulty. As a result, he 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: 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 the later 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 work as a censure of theirs.²⁰

Unlike other attempts to purify the original text of scripture from corruptions, Jerome’s own approach, partially adopted from Origen and partially created in response to his own scholastic environment, was to lay bare for his reader the fact of the variation and to encourage them to remain skeptical of the ability of translators and the trustworthiness of scribes. Thus he repeatedly offers two versions of the same text and does not offer an opinion on which is correct, for instance at 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.”²¹ Jerome was committed to placing the sum total of the scholarly tradition together.²² In his *Preface to the Book of Job*, Jerome explicitly claims that scriptural texts – and especially those with fraught transmission histories – should be transmitted with asterisks and *obeli* intact.²³ In his *Preface to Ezekiel*, Jerome goes so far as to prescribe scribal practice for copies of his

²⁰ Jerome, *Book of Hebrew Questions on Genesis*, preface.

²¹ *Quam de Paulo apostolo manifestissima prophetia sit . . . tamen in Hebraeo sic legitur.* PL 23.1060B–C.

²² 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.

²³ Text PL 28.1079A–1084A. See especially 1080A.

translation: the text is to be written with spaces between words so as to avoid confusion and interpretive failures. His *Preface to the Gospels* takes a somewhat different tack: he claims that he has attempted to change little from current Latin translations unless the translations reflected a corruption in the underlying Greek or the Latin fails 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.²⁴ Even the text of scripture is liable to censure, but Jerome claims that even faulty witnesses possess authority of one sort or another.

Jerome is perhaps the scholar best equipped to discuss the relationship of Theodosian era scholars to the work of their predecessors 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 the work of his disciplinary elders. 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 ideology of scholarship; his commitment to a suspicion of documents and archives was thoroughgoing and ongoing. In his case, the archives are scriptures that are both true and incontrovertibly faulty.

THE PROCEEDINGS OF THE COUNCIL OF CHALCEDON

The *Proceedings (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.²⁵ However, the compiled *acta* were imperial documents, produced in the court of the Eastern emperor in the immediate aftermath

²⁴ Jerome admits in his *Preface to the Gospels* that the *Gospel according to Matthew* was written in Hebrew, but he appears to have no knowledge of any manuscripts of it. On chains of translation through multiple languages see the wine metaphor at the end of Jerome's *Prologue to the Books of Solomon*.

²⁵ 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 Graumann, "'Reading' the First Council of Ephesus (431)," Price, "Truth, Omission,

of the council, and circulated along with supporting documents by early 455.²⁶

The *Proceedings*' peculiar structure allow insight into the documents brought before the council along with the interpretation of those documents in a cross section of the later Theodosian Age. Each council read out and copied into its records some portion of the records from the previous meeting. At the first session of Chalcedon (451), for instance, *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 *acta* from the Home Synod of Constantinople (448) and entered those into the conciliar record. Through this process multiple successive layers came to be embedded within a single document. We are left with a textual nesting doll, where the oldest documents in the *Proceedings of the Chalcedon*, held in 451, stem from the Council of Ephesus, held twenty years earlier. The *Proceedings of Chalcedon* thus contain the proceedings of previous councils and information about the way that these documents were read and interpreted. Within the *acta* we see clerics reading and assenting to records from previous councils, along with bishops resisting the authority of these documents, denying their veracity, and questioning their validity as records of the past. The *Proceedings of Chalcedon* are valuable because they allow historians to look over the shoulder of bishops as they interpreted imperially authorized documents, and to make 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, preserved within the *acta* from Ephesus II:

"This statement that they say I made I did not make in these words (ταύτην ἢν λέγουσιν με εἰρηκέναι φωνὴν ἐγὼ οὐκ εἶπον αὐταῖς λέξεσιν). I am not aware of having said this . . . "

Juvenal bishop of Jerusalem said:²⁷ "So, was your statement altered (αὕτη οὖν ἡ φωνὴ παραπεποίηται)?"

and Fiction in the Acts of Chalcedon," and Graumann, "Documents, Acts and Archival Habits in Early Christian Church Councils: A Case Study."

²⁶ Schwartz, *ACO* 2.1.3 (pp. xxi–xxii).

²⁷ Late ancient court proceedings are very commonly bilingual and very often include the full name and title of each party before each statement. . See for instance *P. Oxy.* 63.4381 (TM 22144), 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

Basil bishop of Seleucia said: “I have neither memory nor knowledge of having made it.”²⁸

Here, Basil of Seleucia defends himself against *acta* from a council that was held just one year prior. The reader may reasonably infer (and perhaps is *supposed* to infer) that the bishops in the room also attended last year’s council, and that many attendees remembered what Basil said. Nevertheless, as we saw in the *Law of Citations*, it was the *text* of the council that was authorized and not the events which the text relays. Witnesses are required to respond to the imperially sanctioned account of the council rather than to any living witness. The locus of truth is textual, and the text’s authority does not lie in its referentiality – in the fact that it points to the moment of actual import, which happened in the past. Rather, the document *itself* is the authority and it exists separate from the events which it narrates, even when it is faulty.

This startling centrality of documents to conciliar dispute appeared early in the Theodosian Age, as seen for instance in Palladius’s exasperated response to Ambrose quoted earlier: “You are judge, [on account of the fact that] your note-takers are here!” Everyone in the room knew that at future events, human witnesses would be required to answer to the imperially sanctioned, authorized codex of the proceedings and decisions of the council rather than to anyone’s recollection of the event or any other account. Consider a charge of editorial forgery in the statement of Theodore of Claudiopolis 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?”²⁹

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 (TM 22012).

²⁸ ACO 2.1.1.546–548 (pp. 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.’”

²⁹ 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 (pp. 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

We see here again that the *acta* themselves serve as the authorized account; accusations of malfeasance must be made on the basis of that codified document rather than against other people who were present at the document's creation.

The *Proceedings 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 I have argued, they echo rhetoric we see throughout the Theodosian Age. 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, attendees built mechanisms of verification directly into the production of *acta*.³⁰ In fact, the production and verification of documents was so important in 411 that the first session begins 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 from the governmental apparatus were assisted by dueling secretaries (*notarii*) – two each from the Catholic and Donatist factions – intended to take down statements in duplicate.³¹ 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 have undersigned"), often with his full title included.³²

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.

³⁰ 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). Nevertheless, 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 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.

³¹ *Ibid.*, 1.1.18–20. Text SC 195.

³² The procedure of *subscriptio* in Roman legal documents often involved 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 Meyer, *Legitimacy and Law*, 207–208. On the ideology and materiality of subscriptions of this type in works of

While the *Proceedings of the Council of Chalcedon* admit continually to their own faulty transmission, the *Proceedings 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 document from 411 is “a real gem of hard reportage.”³³

The *Proceedings of the Council of Carthage in 411* are among the most self-consciously authoritative texts surviving from antiquity. The importance of documents produced by the council is confirmed from the first page, and quite literally reinscribed on each subsequent sheet. Perhaps most interesting is that scribes transmitting copies of the *Proceedings* show extreme sensitivity to the materiality of the methods of verification instituted at the council. In copies of this text, each statement is followed by more than just the statement *recognovi* or *subscripsi*, as autographs of the proceedings would originally have read. Manuscripts of this text attest to their own status as secondary copies by preceding each mark of verification with the words *et alia manu* (“and, in a different hand”), indicating that the attendee named wrote *recognovi* or *subscripsi* personally, rather than leaving it to the scribal stenographer.³⁴ Subsequent copies of these documents, in other words, attest to their derivative status, similar to the derivative status of copies of the *Theodosian Code* discussed in Chapter 5, by indicating that the original edition was composed by multiple different hands – that the scribal multivocality which was intended as a mark of authenticity has been lost in transmission.³⁵

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 prevailing scholastic practices in the Theodosian Age. People have been skeptical of documents as

Christian doctrinal scholarship and dispute, see Pecere, “La tradizione dei testi latini,” 24–29.

³³ Shaw, “African Christianity: Disputes, Definitions, and ‘Donatists,’” 17.

³⁴ 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. A more industrious scribe would have at least changed inks.

³⁵ 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 Text CMG 5. Quoted in Hanson, “Galen: Author and Critic,” 25.

long as there have been people and documents. The change that I document 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 landscape results from practical shifts in the way that most scholars went about their tasks in the late fourth and early fifth centuries. I argue that historians can and should take note when precedented actions are undertaken for unprecedented reasons. There are limitless reasons to be skeptical of documents, and yet Theodosian readers and writers, by and large, were skeptical of documents because their scholastic projects were built on the aggregation of archival sources. Mine is not a whig history of practice, in which all of the features of the Theodosian Age order of books necessarily flow from a single, motivating shift. Nevertheless, there are certain scholarly practices that 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.³⁶

Some scholars during the Theodosian Age adjudicated disputes between opposing authorities on a case-by-case basis. Some scholars, such as 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 manufactured by the imperial chancery, sometimes as little as twelve months prior. Scholars at the Conference of Carthage in 411 knew that the *Proceedings* of the 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 that themselves have unclear transmission histories.

As I showed at the beginning of this chapter, 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 end up censoring either the

³⁶ Yehudah Brandes makes a similar contention regarding the rabbinic corpus and what I have called "rules for deciding." Brandes, "The Beginnings of the Rules of Halachic Adjudication: Significance, Formation and Development of the Rules Concerning the Tannaic Halacha and Literature," vi–vii. I return to this point later.

Hebrew Bible or 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*. I now turn to another.

THE THEodosian TALMUD

The rabbis of Late Antiquity were scholars, and they worked and lived within a self-aware system of scholastic disputation. This is, perhaps, the full extent of clear similarities between rabbis and the other scholars engaged in this book. Among the greatest challenges in studying rabbinic literature is that basic questions remain unanswered by the tradition itself. As Yitz Landes observes:

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.³⁷

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 I have engaged in this book 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 its intellectual project, and at times the text seems to be purposefully obtuse.³⁸ Any

³⁷ Landes, “The Transmission of the Mishnah and the Spread of Rabbinic Judaism, 200 CE–1200 CE,” chapter 8.

³⁸ As it is traditionally transmitted with *Berakhot* in first position, 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* did not originally stand at the beginning of the corpus; *Terumat*, the longest tractate, did. 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 Landes, “The Transmission of the Mishnah and the Spread of Rabbinic Judaism.” While the idea 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.

contextualization of rabbinic materials will necessarily be speculative – if the question was interesting in antiquity, we have no record of anyone asking it.

And yet, it is the rabbinic material most clearly situated in a Roman province of the Theodosian Age that 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; there, too, scholars deal with the effects of textual authorization and answer 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 Christianized intellectual practices 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,” as Seth Schwartz rightly argues.³⁹ A full discussion of the ways in which a peculiarly Theodosian structure of knowledge inflects the *Palestinian Talmud* is beyond the scope of this book. Here I offer here just two examples, which I argue are 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. 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” (סַתָּם, translated “anonymous,” though literally “stop” or “seal” — a metonymic use to refer to the final layer editors that “seal” or “close” the book).⁴⁰ 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

³⁹ Schwartz, *Were the Jews a Mediterranean Society?*, 114.

⁴⁰ *B.San.* 86a explicitly discusses the presence of a stammatic layer and its source in *Mishnah*, *Tosefta*, *Sifra*, and *Sifrei*.

subsequent redactional layer, its temporal context is squarely Theodosian; more precision is impossible given the current evidence.⁴¹ This is a work of aggregative scholarship that crystallized into its current form during the Theodosian Age and, as I argue later, 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.⁴² The rules are given by Rabbi Zeira, a resident of Roman Palestine during the third generation of rabbinic scholars:

R. Yose said in the name of R. Johanan that [in disputes between] R. Yose and his colleagues (רבי יוסי וחביריו), practice (הלכה) 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. Simeon, practice follows R. Simeon. [In disputes between] R. Simeon and R. Judah, practice follows Rabbi Judah, and one need not mention that (ואין צריך לומר) [in disputes between] R. Meir, R. Jehudah, and R. Simeon, practice follows R. Jehudah. And from this you infer that (ומינה את) [in disputes between] R. Judah and R. Simeon, practice follows R. Judah.⁴³

For the first time in the rabbinic tradition, these rules offer 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* mentioned earlier. Yehudah Brandes has analyzed this passage in the context of the *Palestinian*

⁴¹ See Moscovitz’s discussion in “The Formation and Character of the Jerusalem Talmud.”

⁴² By “rules for deciding” I mean an algorithm indicating the hierarchy of authorized voices. I do not mean the rules like those 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 Kahana, “On the Fashioning and Aims of the Mishnaic Controversy” (Hebrew).

⁴³ *Y.Ter* 3.1, 42a. Readings according to Leiden 4720 (Scaliger 3). 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 advice of Amit Gvaryahu.

Talmud as a whole and has found that not a single *sugya* (“section,” roughly) contradicts these simple rules for deciding between conflicting opinions that were initially proposed by R. Yohanan in the late third century.⁴⁴ Building on Brandes’s work, Richard Hidary demonstrated that it is likely *only* the Stam – the anonymous, Theodosian Age layer of the *Palestinian Talmud* – that unequivocally endorses rules for deciding between voices that were first suggested over a hundred years before.⁴⁵ 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. Rendering the insight more interesting is this: the Sassanian recension of the same text takes a radically different approach.

The *Babylonian Talmud* (sometimes referred to as the “*Bavli*”) was compiled in Sassanian Iraq some two centuries later and it certainly has a number of rules for deciding, as noted by Dov Zlotnick, including a principle of הלכה כסתם משנה (“the law is according to the anonymous Mishnah”) by which the anonymous voice has final say when rabbis disagree. Even later commentators such as Rashi (late eleventh century CE) saw principles in the *Bavli* such as the notion that contradictory regulations should be preserved even when they come down in the name of a single teacher, or from a teacher who changed his mind – a principle that “would have been understood, if not praised, by Roman jurists.”⁴⁶ But the Babylonian rabbinical community had a different approach than the rabbis of late Roman Palestine to algorithmic rules for deciding like we see in the *Law of Citations*.

The *Babylonian Talmud* 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, it repeats the same rules for deciding recorded in the Palestinian tractate on *Heave Offerings*, quoted earlier. In the *Babylonian Talmud*’s version of this tradition, the “rules for deciding” offered and embraced by the *Palestinian Talmud* are followed by a sustained discussion, including six countervailing cases where the rules are shown to be riddled with exceptions – with the implication being that the rules themselves are useless. As Hidary concludes:

⁴⁴ Brandes, “The Beginnings of the Rules of Halachic Adjudication.”

⁴⁵ Hidary, *Dispute for the Sake of Heaven: Legal Pluralism in the Talmud*, 55.

⁴⁶ Zlotnick, *The Iron Pillar, Mishnah: Redaction, Form, and Intent*, 206. A broader discussion of these rules, their genesis, and their medieval reception is available on pages 194–217. The Rashi discussion is in *b.Sheb* 4a.

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.⁴⁷

While there is reason to believe that the compilers of the *Bavli*'s anonymous redactional layer knew and responded to its redactional counterpart in the *Palestinian Talmud*, the *Bavli* as a whole arose out of and crystallized in a remarkably different intellectual and political milieu.⁴⁸ 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 the very most – ambivalent about them and inconsistent in their application.

The Stam of the *Palestinian Talmud* unequivocally supports the rules for deciding and applies them uniformly. As Richard Hidary argues, it is *only* the Theodosian stammatic layer which considers these rules to be ironclad. Parallels with broader Roman scholastic aims and methods are not restricted to the invocation of rules, however.⁴⁹ Like the *Law of Citations*, the *Yerushalmi*'s Stam also witnesses a suspicion of authorized traditions, and offers 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 fast day, the Ninth of Av:

⁴⁷ Hidary, *Dispute for the Sake of Heaven*, 50.

⁴⁸ 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 an even clearer rejection of a peculiarly Theodosian methodology. On HaLevy's argument see 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*. *ibid.*, 175–197. My 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 Friedman, *Talmudic Studies: Investigating the Sugya, Variant Readings, and Aggada*, 46–47, among others.

⁴⁹ Hidary, "Tolerance for Diversity of Halakhic Practice in the Talmud," 408–410. 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 Yohanan and therefore would not have known the rules." *Ibid.*, 412n38.

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 recite and swap the words of the sages.⁵⁰

For my purposes here, 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 authorities disagree. In normal circumstances, a rabbinic student following along with the discussion, regardless of the particular issue at stake, should be able to predict the solution reached by the text: namely, that “The halakha is in accord with him who says that he should complete the fast.” This is, after all, simply an application of the rules for deciding laid out in the passage of *Heave Offerings* discussed earlier: “[In disputes between] R. Yose, and his colleagues, practice follows R. Yose.”⁵¹

The *Palestinian Talmud* is famously terse, and the anonymous redactional layer (Stam) 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 worth recording in full. An explicit ruling is necessary because some 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.⁵² 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 any instability in the tradition renders the rules for deciding essentially worthless. In this case, suspicion of documents caused the famously terse

⁵⁰ *Y.Ta.* 2.10, 66b. See nearly identical moves in *y.Ta.* 1.3, 64a and *y.Kil.* 9.3, 32b. “There are reciters who recite (אֵיתָ תִּנִּי תִנִּי)” is a fixed phrase within the rabbinic corpus.

⁵¹ *Y.Ter.* 3.1, 42a.

⁵² It is not clear whether the concern here is over accidental or purposeful reattribution of halakhic opinions in order to change the outcome of a debate. The latter is particularly common in the *Bavli*.

redactor of the *Palestinian Talmud* to become uncharacteristically loose lipped.

Hayim Lapin is right to stress that “what makes the rabbinic movement so striking 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.”⁵³ And yet we glimpse glimmers of regional variability in these divergences between Sassanian and Palestinian rabbis; we start to see Roman ways of knowing finding expression even in a corpus of material that disclaims its Romanness at every turn. Amit Gvaryahu 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:⁵⁴

The difference in the substantive law . . . is what enabled the rabbis to say, and in 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.⁵⁵

My argument here is similar to Gvaryahu’s, but I see borrowing on a scholastic 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 book. For one, it wasn’t written down. The

⁵³ Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100–400 CE*, 65.

⁵⁴ 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.* 7.7, 38a, comparing Roman legal praxis around legal summons (using the Greek terms, as one might expect in the East, for instance דאטאגמא for διαταγμα) with rabbinic practices. (Discussed in Lapin, *Rabbis as Romans*, 119–123.) See also *CTh* 2.1.10, a law of Arcadius and Honorius (February 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 that may be adjudicated by a Jewish judge only if agreed by both parties.

⁵⁵ Gvaryahu, “Rabbis and Roman Jurists on Navigating Financial Markets.”

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.⁵⁶ Bertyus (modern-day Beirut), the epicenter of Roman law in Late Antiquity, lies just over 100 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 betray the tradition as arising partially within a Theodosian Age scholastic framework, facets of which we have seen time and again over the last six chapters. This scholastic 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, to stress both the coherence of some facets of its method 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 the changing formats and aims detailed in Chapters 5 through 7: "new readers of course make new texts, and their new meanings are a function of their new forms."⁵⁷

⁵⁶ The classic statement on the Greco-Roman context of classical rabbinic texts is Lieberman, *Hellenism in Jewish Palestine: Studies in the Literary Transmission, Beliefs and Manners of Palestine in the I Century BCE–IV Century CE*. For an assessment of the Bavli's Sasanian context, see Secunda, *The Iranian Talmud: Reading the Bavli in Its Sasanian Context*.

⁵⁷ McKenzie, *Bibliography and the Sociology of Texts*, 29.

Conclusion

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 historical imagination, limiting our estimation of ancient networks of influence. I have 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, 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

¹ Anderson, “Feminist Epistemology,” 62.

abundance of universally binding precepts if read with the right set of assumptions and hermeneutical strategies. Others, such as Tertullian, saw truth as fundamentally pre-textual, 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 with 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 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 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,² 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 scholastic practices inflected by

² There were pre-Theodosian purges of heretical and Traditionalist elites from the imperial administration (and from life, in some cases), though none so systematic or theologically interested as those carried out under Theodosius I. Some purges, like that carried out by Valens in 372, were anti-Traditionalist in effect, though not in design. See Lenski, *Failure of Empire*, 223–226.

doctrinal controversy, but that this peculiarly Christian structure of knowledge did not long remain solely the purview of theologians. A manner of thinking about 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 a scholastic regime that 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.³ In Late Antiquity, legal scholars used the dominant scholastic framework to craft the *Theodosian Code*. Given the Christian foundations of that framework, we could conclude that, therefore, the *Theodosian Code* is a Christian production. Alternatively, we could say that the Christian/non-Christian distinction fails in this context. We could contend that, if the adjective “Christian” is to have any analytical purchase, it must be capable of making a distinction; because the methods used to produce the *Theodosian Code* were dominant, we might argue that it doesn’t *mean anything* – it doesn’t make a difference – to say that the use of a “Christianized structure of knowledge” 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 practices which inflected the production of the first universal codification of Roman

³ Lin, *The Erotic Life of Manuscripts: New Testament Textual Criticism and the Biological Sciences*.

legal truth, or a great late ancient work of bookish antiquarianism such as Macrobius's *Saturnalia*. As I have told it, that history is inflected by doctrinal disputes of the early fourth century, and in this sense the history of juristic practice, antiquarian method, and Christian theological disputation are intimately intertwined – not to mention historiography, military history, or any of the other domains of Theodosian knowledge production detailed in this book. I have tried to trace the inter-implication of Christian ways of knowing and Roman modes of knowledge 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 ply their trade without detailed knowledge of the history of method. Countless 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 methods that we currently employ. Historians can perform intensive, virtuosic post-structuralist analyses deeply indebted to the “literary turn” without any knowledge of what happened in Paris, California, and elsewhere during the 1960s and 1970s.⁴ 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 no knowledge of the contours of the Nicene controversy itself. Nevertheless, the history of method matters. This is the argument that I have made: 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 theologians and jurists and the shared methods between them, is not exclusive of other scholastic network entanglements during the Theodosian Age. Rather, theologians and jurists present a potent test case, helping to clarify the extent of methodological exchange across ancient disciplines that today are studied in very different corners of the academy. The Theodosian Age reverberates in contemporary society most potently, perhaps, from the epistemic overlap in juristic and

⁴ The fact that Elizabeth Clark had to write a book about “how we got here” only further illustrates the point. Clark, *History, Theory, Text: Historians and the Linguistic Turn*.

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."

Case Study: The *Theodosian Code* in Its Christian Conceptual Frame

The preceding eight chapters have been an attempt to understand some aspects of the intellectual climate of the Theodosian Age; a history of practice examining the way that Theodosian scholars thought about, and went about, producing new knowledge. I began by documenting a wholesale change in the ideology and practice of scholarship within the narrow domain of Christian theology, stemming from the failures of the Council of Nicaea to quell doctrinal dispute and produce the unity which would assure heavenly favor. I then argued that some of the changes in the ideology and practice of scholarship can be traced as they left the domains of theology and were taken up by late ancient historians, miscellanists, military antiquarians, and even in the purposefully insular world and work of rabbis conceiving the genre of *Talmud*. I want to complete my argument with a case study, arguing that some of the changes in ideology and practice spurred from doctrinal controversy came to inflect one of Late Antiquity's crowning achievements: the *Theodosian Code*.

Thus far, arguments about the underlying “Christianity,” or “secularity” of the *Theodosian Code* (*CTh*) 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 in trying to understand what it means, both to

its ancient framers and to contemporary historians. But it is the framing of the *Code* where we find some of the clearest evidence for the effect of Christian scholarship on later Roman law. The constitutions which call for the creation of the code, *CTh* 1.1.5 and 6, demonstrate the importation of Christian vocabulary and 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 the domains of law and theology. The *Theodosian Code* is a source of law, but it was compiled in response to a legal proclamation that appears in the *Code* itself, which speaks to the form, content, and conceptual framing of the project. The conceptual framing of the *Theodosian Code*, I argue, points to the “Christianization” of structures of knowledge and governance in the later Roman empire.

The organizing principle of the *Theodosian Code* is “general law (*lex generalis*).” Its compilation began with a constitution of 429 (*CTh* 1.1.5) 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” (1.1.5). 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 language of “general law” does not appear in the text of any ancient juristic commentary. It is not discussed as a category of law in the way that, for instance, Ulpian copiously delineated the concept of an “edict (*edictum*)” in its various instantiations. That the language is novel within the Roman legal tradition is clarified by a constitution from three years before the *Theodosian Code* project began, in which the Western court of Valentinian III issued a law defining the precise boundaries of what constitutes a “general law (*lex generalis*).”¹ These two facts alone suggest that the terminology does not derive from classical Roman jurisprudence, and might suggest that the concept itself was novel as well. This odd state of affairs, in which the crowning jewel of Roman juristic scholarship is organized around terminology 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.”²

¹ *CI* 1.14.2,3.

² Those who have spent any time unpacking the concept do so only cursorily, and almost unflinchingly with reference to an article published in 1981 by van der Wal that, according

This Appendix 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 meaning exclusive to 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 language of “general law” is not internal to classical Roman jurisprudence. Historians are incorrect, however, to presume that it 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 arose ultimately 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 idea and language of “general law,” and it is this language with which the *Theodosian Code* was framed. 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.³ 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, the language that it uses to describe the codification effort, and the motivation for the project in the first place: as the first step toward creating a “guide to life.” The law calling for the compilation of the *Theodosian Code* itself, in turn, serves as a prism through which to view the effect of Christian governance

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; 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 Exactors 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 these studies. It is not the last word on the topic; it is barely on the topic whatsoever.

³ See, for instance, Caseau, “L’adjectif *profanus* dans le livre XVI du Code Théodosien”; Freu, “Rhétorique chrétienne et rhétorique de chancellerie.”

on domains of later Roman life that do no obvious theological work, but which are nevertheless described with peculiarly Christian language and conceived in line with the dominant scholastic framework – a framework that I argued earlier proceeds from Christian theological disputation, and over the course of the Theodosian dynasty came to undergird Roman scholarship writ large.

MAGISTERIUM VITAE AND CHRISTIAN TRADITION

The clearest sense in which Christian language and 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 reframed in 1.1.6). The initial constitution envisioned a subsequent 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. As Sebastian Schmidt-Hofner notes of *magisterium vitae* in 1.1.5: “This is a term *and concept* unfamiliar from the Roman legal tradition.”⁴

It has been known for quite some time that late ancient Christians used the term *magisterium* in a sense particular to them.⁵ Gian Gualberto Archi admits as much, though he offers little comment regarding the peculiarly Christian usage of this word in the framing of the *Theodosian Code*.⁶ The *Thesaurus Linguae Latinae* glosses the term in this particular valence as a “guide” or a “tutor,” and Christians overwhelmingly invoke the term in this sense. For instance Ambrose, a member of the court of Valentinian I, lays out three precepts of life which each saint exemplifies in his Christian recreation of Cicero’s *De officiis*:

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

⁴ Schmidt-Hofner, “Plato and the Theodosian Code,” 52, emphasis added.

⁵ 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.”

⁶ Archi, *Teodosio II e la sua codificazione*, 29.

come (*Primum ipse pater Abraham qui ad magisterium futurae successionis informatus et instructus est*).⁷

This is the sense in which Christians deploy the term *magisterium*: to mean a “guide to life.” Writing his *Divine Institutes* from the court of Constantine I, 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 Traditionalist philosophical schools,⁸ and that it was Christ’s *magisterium* that led people to believe in his divinity.⁹

By and large, Traditionalists do not use the term *magisterium*. When 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,¹⁰ and to characterize the censor’s strict supervision of customary tasks.¹¹ Suetonius likewise describes Augustus’s great grandfather as enjoying *municipalibus magisteriis*: surely offices within a *municipium*, and not the position of being the town’s moral exemplar.¹²

The charts in Figures 35 and 36 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.¹³ Furthermore, when Christians use the term, they use it in a sense different from classical authors, and to the same end as it is invoked in the *Theodosian Code*: a guide or moral exemplar.

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 language and concepts have suffused imperial ideology, and are invoked as foundational for the new legal

⁷ Ambrose, *On Duties* (*De Officiis*) 1.106–107. Text PL 144.55C. On Ambrose’s recasting of Cicero’s work for a Christian audience see Davidson, “Ambrose’s *De officiis* and the Intellectual Climate of the Late Fourth Century.”

⁸ For instance, 3.14.20, 3.15.21.

⁹ Lactantius, *Divine Institutes* (*Divinae Institutiones*) 4.16.3. Text PL 6.496B.

¹⁰ Cicero, *On Old Age* (*De Senectute*) 46.

¹¹ Cicero, *On the Consular Provinces* (*De Provinciis consularibus*) 46.

¹² Suetonius, *On the Lives of the Caesars* (*De Vita Caesarum*), *Augustus* 2.3.

¹³ The data for these charts were collated from the *Library of Latin Texts* (Series A and 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 *Thesaurus Linguae Latinae* on March 6, 2018. The trend appears even more stark if the data are normalized against the overall production curve for Latin literature, but the poor preservation of third-century Latin sources, and the overrepresentation of Christian materials in the third-century corpus, renders true data normalization impossible.

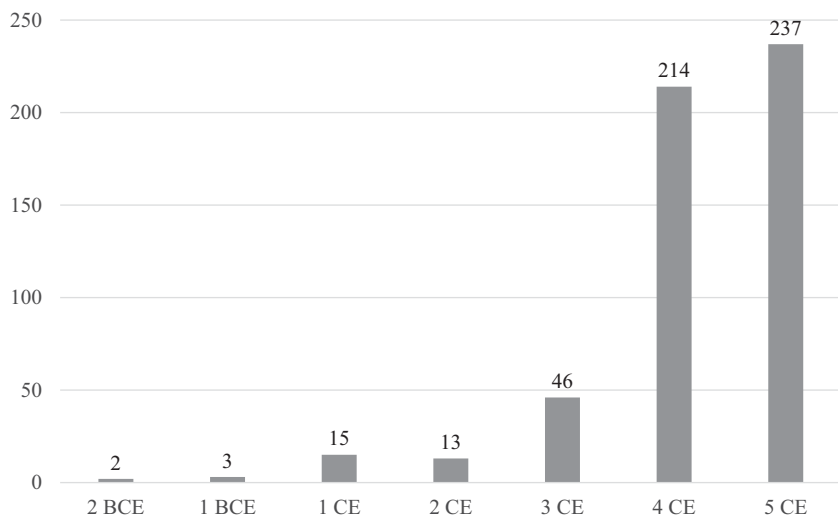


FIGURE 35. Occurrences of the lemma *magisterium* across Latin literature.

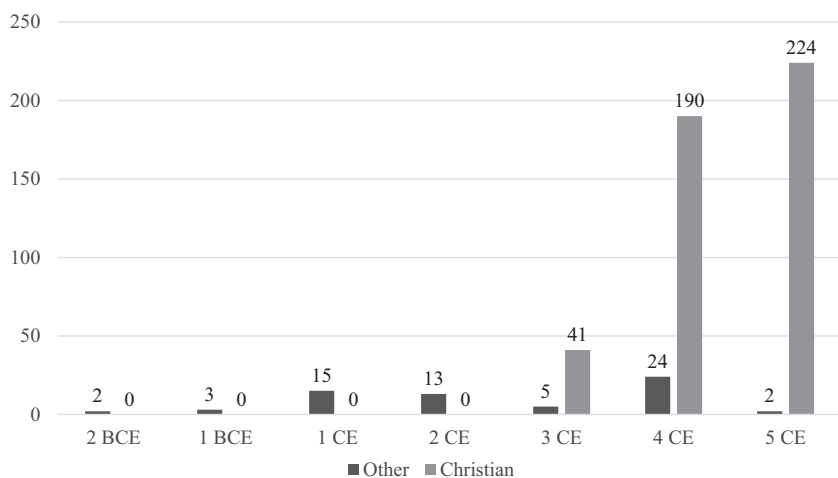


FIGURE 36. Occurrences of lemma *magisterium* across Latin literature, Christians separate.

order of the Theodosian empire. In Chapter 5 I explored the intellectual history by which such aggregative scholarly products came to be deemed worthy of serving as a “guide to life.” It is quite a strange notion, after all.

Sebastian Schmidt-Hofner recently pointed out the peculiarity of this usage, and he is undoubtedly correct in claiming that:

[W]hat had no model in Roman legal science and what makes Theodosius' codification project stand apart from the entire Roman legal tradition is the final step envisaged in 429. This was that the collection and condensation of the legal and juristic material would not be the end product, but only the basis for a much larger undertaking, a *magisterium vitae* . . . Such a comprehensive and systematic exposition of the entire private and public (so it must be assumed) law governing the life of all subjects of the empire had – to our knowledge – never been envisioned before in Roman legal thought.¹⁴

Schmidt-Hofner explains the impetus to sum up the mass of Roman law into a “guide to life” as a response to a general renaissance of interest in Plato's *Laws* among the intellectual elite of the Theodosian Age. He argues that “Plato's *Laws* offered a reference point in the classical tradition to both the concept of the rule of law and the idea that it was to be achieved in an all-encompassing law code.”¹⁵ It may well be the case that the compilers of the *Theodosian Code* idolized Plato's *Laws* as an intellectual forbearer. But, as Schmidt-Hofner shows, just about everybody was interested in Plato's *Laws* at this time, not just lawyers. And while the idea of a *magisterium vitae*, the prominence of religious legislation, and a discourse around the rule of law may have echoed in Late Antiquity from the distant age of Plato, as I demonstrate later, these very same ideas were being shouted daily from pulpits just down the street from the law courts of Rome, Constantinople, Ravenna, and Antioch, in Nicene churches attended by members of the *Theodosian Code* commission. Their statement of purpose in *CTh* 1.1.5 may nod subtly to the “classical tradition,” but we shouldn't lose sight of the fact that these jurists do so by invoking the language of theological disputation. Scholarship on Roman law has spent far too long seeking out subtleties while ignoring the explicit words chosen by this committee, and the words of the laws that they codified – laws that, as we learned from the *Sirmondian Constitutions*, often dripped with virulently partisan Nicene Christian rhetoric before being diffused through excision and re-placed in the *Theodosian Code*, decontextualized except for the hints that remain in the framing of the project itself. We ignore the social and the intellectual context of these men at our peril, and we run the risk of fundamentally misunderstanding the world in which these men spoke if we fail to account for the language that they chose to put to it. If we want to know what they mean, we must start with their words. In this case, their words are telling.

¹⁴ Schmidt-Hofner, “Plato and the Theodosian Code,” 44–45.

¹⁵ Ibid. 57.

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, and not jurists, who used those terms and theorized about the definition and boundaries of “general” versus “specific” law for 200 years preceding their invocation in the domain of law.

LEX GENERALIS IN CLASSICAL JURISPRUDENCE

The language of “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, sees a doctrine of legal universalism equivalent to late ancient *generalitas* in the Twelve Tables’ prohibition of *privilegia*: statutes implicating only one subject.¹⁶ Of course, the text of the statute in question is not extant, and surviving fragments contain no discussion of *generalitas*, by that name or any other. Furthermore, even a cursory overview of the history of Roman jurisprudence from the earliest republic onward will show that, in any case, *privilegia* were plenty to be had; the language of *generalitas* is not found in the Twelve Tables, and even if the *language* were there, the statute which supposedly comprised its source appears to have carried no weight.¹⁷

Archi offered a more nuanced analysis, though he is of two minds on the subject. He finds compelling evidence to localize the creation of *lex generalis* as a term of legal art to the chancery of Theodosius I.¹⁸ He nevertheless finds *some* precedent for laws of general force in the text of Ulpian as preserved in the *Digest*, who twice discusses *generalia* ... *rescripta* (47.12.3.5, 28.5.9.2) and once a *generalis epistula* of Marcus Aurelius and Commodus (11.4.1.2). In Archi’s first example, Ulpian wonders whether a municipal law (*lex municipalis*) could contravene an imperial rescript (*rescripta principalia*) in order to allow for internment of the dead within the city’s walls.¹⁹ Ulpian’s answer is that the rescript in question is general in scope and thus should be considered of similar force

¹⁶ Pharr, *The Theodosian Code*, 4n24.

¹⁷ 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.

¹⁸ Archi, *Teodosio II*, 75. ¹⁹ D 47.12.3.5.

to a statute. Ulpian reasons that, therefore, even if there were a municipal law that allowed for internment within the city, the imperial rescript supervenes. That is to say, Ulpian makes a statement about the relationship between a *lex municipalis* and an imperial rescript; he is not discussing the state of rescripts in and of themselves, nor the validity of statutes or rescripts in all cases. There is no doctrine of General Law be uncovered here, despite the discussion of a “rescript of general application.”

Archi’s finds a second “precedent” at *D* 11.4.1.2, where Ulpian claims:

There is also a general letter (*generalis epistula*) 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 property they hide, if an offense is involved.²⁰

This is not a compelling precedent for a concept of legal *generalitas* because Ulpian here considers an *epistula* to be “general” only in the sense that it applies to “both governors and magistrates and police (*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* defined by the Ravenna law of 426 (*CI* 1.14.2,3), and invoked in the creation of the *Theodosian Code*.²¹

I will myself suggest one more possible precedent for a classical concept of “generality” to the examples typically adduced: Pliny the Younger’s letter to Trajan from the year 110 or 111, where the governor enquires about the legal status of “foundlings (ἑρεπτοί).” Pliny claims to have looked for imperial precedent that would be relevant to his particular situation in Bithynia, but did not find anything “either particular or universal which bore on Bithynia (*aut proprium aut universale, quod ad Bithynos referretur*).”²² He claims to have investigated edicts from 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

²⁰ *D* 11.4.1.2. Translations of the *Digest* follow Watson.

²¹ Archi’s argument is repeated, though without citation, in Harries, “‘Sacra Generalitas’ the Administrative Background to the Theodosian Code,” 36.

²² “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 existimaui, quid observari velles*).” Pliny the Younger, *Letters* 10.65. Text and translation LCL 59.

procedure in his own province. Not only does the governor appear to be unaware of *any* standardized terminology of “generality” for the type of precedent for which he was looking, but further, the force of *aut proprium aut universale quod ad Bithynos referretur* suggests that Pliny thought it possible that a “universal” precedent *did not apply* in Bithynia. This is, at the very least, a concept of universality that strains credulity if universality is supposed to mean something like “applicable everywhere, without distinction.”

Other commentators have discussed the relationship between general law and other legal categories but, apart from Archi, a comprehensive discussion of the intellectual history of the concept has not been undertaken – seemingly because there is so little material to work with in the classical sources for Roman law.²³ As mentioned earlier, the *locus classicus* for discussions of the history of the concept of a general law is an article by van der Wal that is cited incorrectly almost without exception.²⁴ The article discusses *lex generalis* only insofar as it relates to the force and meaning of edicts but not as a concept in and of itself. 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. Mariagrazia 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.²⁵ Likewise, Sebastian Schmidt-Hofner has shown convincingly that, in reality, even statutes explicitly labeled as

²³ 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*, 2:433–441. Likewise Kussmaul discusses *leges generales* only in so far as they interface with *leges pragmaticae*, specifically whether a *pragmaticum* could contravene a general law. Kussmaul, *Pragmaticum und Lex: Formen spätrömischer Gesetzgebung 408–457*, 86–89. See also a cursory discussion of the evidence, and of Honoré’s treatment of it, in Sirks, “Observations on the Theodosian Code: *Lex Generalis*, Validity of Laws.”

²⁴ The exceptions, which cite the article according to its actual title, are: Honoré, *Law in the Crisis of Empire*; Matthews, “The Making of the Text”; Sirks, *The Theodosian Code*; and Schmidt-Hofner, *Reagieren und Gestalten: der Regierungsstil des spätrömischen Kaisers am Beispiel der Gesetzgebung Valentinians I.*

²⁵ Bianchini describes her specific aims in *Caso concreto e “lex generalis”: per lo studio della tecnica e della politica normativa da Costantino a Teodosio II*, 19.

“general laws did not necessarily carry validity throughout the empire or in a large-scale administrative area like a prefecture.”²⁶ My argument, on the other hand, concerns the language of General Law as a technical term in Roman law, and its conceptual history, rather than the history of its application.

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*.”²⁷ Papinian further defines civil law as comprising “statutes, plebiscites, *senatus consulta*, imperial decrees, or authoritative juristic statements.”²⁸ Needless to say, the concept of General Law invoked by *CTh* 1.1.5 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 ὠρισμένον πρὸς αὐτούς), which again are divided into written and unwritten; by general laws I mean those based upon nature (κοινὸν δὲ τὸν κατὰ φύσιν).”²⁹

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

²⁶ 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*,” 35.

²⁷ *D* 1.1.6. ²⁸ *D* 1.1.7.

²⁹ Aristotle, *Rhetoric* 1973b4–8. Text and translation adapted from *LCL* 193. 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.

Cicero.³⁰ It is true that there are laws and legal concepts from the classical tradition that apply generally. It is also true that linguistic systems often have “covert categories,” as Benjamin Whorf put it, which are operative even when they are not explicitly named or articulated.³¹ It may be the case that a concept of General Law was lurking in the mass of Roman legal theory, and simply remained unarticulated as such until 426, when it was named and defined by *CI* 1.14.2,3 to be invoked by *CTh* 1.1.5 in 429. I find it unlikely that such a foundational concept would go wholly unremarked upon in a tradition so self-consciously interested in delineating categories of analysis – if it did indeed exist for the likes of Ulpian, Papinian, and Paul – but you may disagree. If so, then the weaker form of my claim nevertheless holds: that the *language* of General Law arrives completely *de novo* in 426, and paying attention to the common usage of that language by members of the court and their intellectual peers will help us to understand where it is that they got it from and what it meant to them.

I am not the only commentator who has found support for a stronger claim, however. As mentioned earlier, Archi, Harries, and most recently Schmidt-Hofner all agree that there is no precedent in classical juristic writings for the Theodosian *concept* of General Law as it is articulated and used in the Theodosian court. That is, the definition of General Law that we see in *CI* 1.14.2,3 is particular, and deserves to be understood as a fully formed concept of extraordinarily specific legal application, rather than a (as it were) general category of analysis. It is clear that the classical tradition witnesses to a concept of laws with widespread application. But what Schmidt-Hofner, Harries, Archi, and I mean when we say that General Law “is a term and concept unfamiliar from the Roman legal tradition” is more specific than saying that there was no capacity for laws of general application.³² Rather, we are claiming that the specific bounds of General Law are new to the Theodosian Age, when it first appears as a technical term in the sense of a universally applicable subset of the *ius civile*.

The term *lex generalis* arises 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,

³⁰ For Cicero’s definition of universal, natural law, see *De re publica* 3.22(33).

³¹ Whorf, “Grammatical Categories,” 2.

³² Schmidt-Hofner, “Plato and the Theodosian Code,” 52.

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.³³ It is unclear whether *CI* 1.14.2,3 presented the very first technical definition of General Law – 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.³⁴ Interest in the universality of law 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.³⁵

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 reign of Constantine.³⁶ That is, there is some reason to believe that already during the reign of Constantine, jurists made a functional distinction between case-specific rulings and those that were more widely applicable.³⁷ From the early fourth century, as well, many constitutions were specifically ordered to be promulgated widely.³⁸ Ulpian too notes that some rescripts were considered to be precedential while some were not.³⁹ But the choice of *this* conceptual tool – General Law – as an answer to these concerns is neither accidental nor historically necessary; rather, I argue that it reflects the scholastic language of a Christian imperial court.⁴⁰

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 earlier. For one, a simple constitution clarifying that edicts and *orationes* are henceforth to

³³ Honoré, *Law in the Crisis of Empire*, 252–257.

³⁴ 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*,” 34.

³⁵ Honoré, *Law in the Crisis of Empire*, 248–257. ³⁶ For instance, *CTh* 1.2.2, 315 CE.

³⁷ Sirks argued as much in *The Theodosian Code*, 29–35.

³⁸ For instance *CTh* 11.27.1, 12.5.2, *Sirm.* 4. ³⁹ *D* 1.4.1.2

⁴⁰ 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 Neoplatonic ideology that began in Constantine’s court, in which the imperial will was immediately supposed as universally normative. “*Leges generales*: linee 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.

be considered *generalis* without instituting a new category of General Law would solve the issue in a more elegant manner, without multiplying categories.⁴¹ Similarly, if the skeptics are right that there is a covert concept of generality inherent to the Roman legal system across time, could it not have just as well remained unarticulated, as it allegedly had been for a millennium? My next question, then, is “why articulate the covert concept now?” Bianchini even admits that 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,”⁴² and that the *Theodosian Code* itself as reenvisioned in its second iteration disregarded the directive in its strict reading (I.1.6).⁴³

There is another problem: namely, that if there *is* a covert concept of generality in Roman law, we probably shouldn’t look to *generalitas* as its emic language. Rather, 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 long tradition of exposition in Rome under the heading *universitas*. If late ancient lawyers wanted to solve the “problem” of case-specific rescripts, and point to and an ideology of generality, then *universitas* is the obvious lexical and conceptual solution, with a rich tradition in Roman legal thought stretching back centuries.⁴⁴ Here, again, the problem could have been solved without creating a new legal category of General Law. Similarly, the 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 operationalize them to new applications.⁴⁵ Late ancient lawyers had 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, without creating and then defining the boundaries of a novel legal tool. 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 Theodosian

⁴¹ Christoph F. Wetzler offers a similar objection in *Rechtsstaat und Absolutismus: Überlegungen zur Verfassung des spätantiken Kaiserreichs anhand von CJ 1.14.8*, 93–95.

⁴² Bianchini, *Caso concreto e ‘lex generalis’*, 145. ⁴³ Ibid., 146. See also 150n25.

⁴⁴ *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.

⁴⁵ Harries, “*Sacra Generalitas*,” 36. On the *subscriptio* itself, see Mourgues, “The So-called Letter of Domitian at the End of the *Lex Irnitana*.”

Age that he was believed to have converted to Christianity later in life: Philo of Alexandria.

GENERAL LAW IN CHRISTIAN TRADITION

Philo of Alexandria's works, like those of his contemporary Josephus, remain extant solely due to the interest of 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. Philo is the first thinker in the Greco-Roman tradition to theorize explicitly about "general" and "specific" law as a special category of legal analysis, and in those terms. In his *Who Is the Heir?*, Philo writes that the two tablets of Exodus 32 were given by a "lawgiver (θεσμοθέτης)," and comprise "ten general laws (γενικῶν δέκα νόμων)," composed on two slabs of stone as an allegory "to the rational and irrational (λογικῷ καὶ ἀλόγῳ)" halves of the human soul.⁴⁶ In a teaching tractate titled *On Mating with the Preliminary Studies*, he returns to this theme and introduces a further distinction: between "general" and "particular" laws.

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)" in the form of the Ten Commandments, and special laws which are available only "through an interpreter (δι' ἐρμηνέως)" – presumably the laws that god revealed to Moses directly, which have significance only to the nation of the Jews.⁴⁷ For Philo, the distinction between general and special law is operative on the level of class: special laws are those which are binding only on Jews, being distinct from and legally subordinate to another category: 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 (the "would-be Ambrose"), but the contents of their *Notes on Paul's Letter to the*

⁴⁶ Philo of Alexandria, *Who Is the Heir?* (*Quis rerum divinarum heres sit*) 167. Text Wendland.

⁴⁷ *De specialibus legibus* 2.189–190. Text LCL 320.

Romans, as well as other commentaries from the same pen, place the author's floruit securely between 366 and 384 CE, in the city of Rome.⁴⁸ The quality of the Latin and the content of the commentary suggest that whoever Ambrosiaster was, they were highly educated, likely a native speaker of Latin, and intimately familiar with both Roman legal and Christian exegetical scholarship.⁴⁹ In the New Testament text *Romans* 7:1, Paul deals with the relationship between the Hebrew Biblical law and those who are "in Christ." Ambrosiaster's commentary on this verse begins with a direct quotation of Paul: "*An ignoratis, fratres, scientibus enim 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.⁵⁰ 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" (*non est occultum omnem vitam hominis esse sub lege naturae, quae data est mundo. haec lex generalis est*). 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 (*nunc vero aliam proponit specialem, quamvis et ipsa generalis est, sed dum non recipitur ab omnibus, fit specialis, per quam vult probare adsertionem suam*).⁵¹

⁴⁸ 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 CE, though the differences between recensions in this section are immaterial to my argument. On dating see de Bruyn, *Ambrosiaster's Commentary on the Pauline Epistles: Romans*, 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: libri, scritture, contesti," 52–59. 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).

⁴⁹ 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).

⁵⁰ 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.

⁵¹ Ambrosiaster, *Notes on Paul's Letter to the Romans* (*Commentarius in Pauli epistolam ad Romanos*) 7.1. Text CSEL 81.

In the ample history of theorization as to what, precisely, constitutes 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. 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 CE. According to the author, Paul intended 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. That is, for Ambrosiaster and Philo both, “general laws” (*leges generales*) are those “given to the world” 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 earlier quotation. 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/Lex dei*).⁵² 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 *Collatio* 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

⁵² Wittig, *Der Ambrosiaster “Hilarius”*: Ein Beitrag zur Geschichte des Papstes Damasus I. See also Souter, *Pseudo-Augustini: Quaestiones veteris et novi testamenti*, xxiii; Heggelbacher, *Vom römischen zum Christlichen Recht: iuristische Elemente in den Schriften des sog. Ambrosiaster*, 144–145.

reign of Theodosius I, and he was part of a complex web of interrelations between the Eastern court and the Nicene episcopate in the waning years of the fourth century. Gregory also invokes the distinction between general and special laws, distinguishing between laws that are binding on humanity (those found in the Decalogue) and laws which are binding only on Christians: again invoking a class distinction between the two types of law.⁵³ Gregory published the text as part of his homilies on Ecclesiastes sometime around 380 CE. 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.⁵⁴ 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 CE.⁵⁵ In *Questions on the Heptateuch*, he discusses actions of Abraham done according to “special law” versus those he did according to “general law.”⁵⁶ He deploys the distinction polemically, too, in his *Against the Letter of Parmenion*.⁵⁷

A full accounting of Christian theorization about the connection between law, “generality,” and universality is beyond the scope of this Appendix. The distinction is found throughout the field of early Christian scholarship: early in the third century, Hippolytus commented on an anonymous “Naassene hymn” of the early second century, which declares that the “primal intellect of the cosmos is General Law.”⁵⁸ Origen’s mid-third-century *Selections in Psalms* declares that: “The commandment of the Lord is of the species ‘General Law.’”⁵⁹ During the reign of Constantine, Calcidius connected the concepts of General Law and universality, without distinctions of class, in his *Commentary on*

⁵³ “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 (ὧν γενικός τις καὶ περιληπτικός ἐστὶ νόμος τὰ καθ’ ἕκαστον ἐν αὐτῷ περιέχων) – the one about ‘loving one’s neighbor as oneself.’” Gregory of Nyssa, *Homilies on Ecclesiastes* 8 (393–394). Text Paul Julius Alexander, translation adapted from Stuart George Hall.

⁵⁴ Humfress, “Patristic Sources,” 102.

⁵⁵ Augustine, *Tractate on John’s Gospel* 48.9. Text CCL 36.

⁵⁶ Augustine, *Questions in the Heptateuch* 7.49.5. Text CPL 270.

⁵⁷ Augustine, *Against the Letter of Parmenian* 1.12. Text CPL 331.

⁵⁸ Νόμος ἦν γενικός τοῦ παντός ὁ πρῶτος Νόος. Hippolytus, *Refutation of All Heresies* 5.10.2. Text Miroslav Marcovich.

⁵⁹ Ἡ ἐντολὴ Κυρίου ἐν εἵδει γενικοῦ νόμου ἐστὶν ἐντολὴ. 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.

Timaeus.⁶⁰ Likewise, Constantine's biographer Eusebius speaks in his *Commentary on the Psalms* of "laws named 'general'."⁶¹ John Cassian makes the same connection in his *Conlationes* around 420 CE.⁶² Jerome discusses the idea of generally applicable divine law in his *Commentary on Galatians* written in 394/395 CE,⁶³ and further about the relationship between the *leges Caesarum* and *leges Christi* in his letters – a distinction to which I return later. 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 Nicene 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 as it is recorded in the *Theodosian Code*, beginning improbably as it does with an invocation of General Law (16.8.3). If this constitution originally began with "We permit, by general law ..." it is an outlier. Archi wondered at the seemingly anachronistic terminology, and suggested that it could be explained by the editorial work commanded in *CTh* 1.1.6; which is to say that it was added during the Theodosian Age, rather than being the single use of a phrase which would not be repeated for two more

⁶⁰ Chalcidius, *Commentary on Plato's Timaeus* (*Commentarius in Platonis Timaeum*) 179. Text CPL 579.

⁶¹ ΓΕΝΙΚΩ ὀνομασμένω νόμῳ. Eusebius, *Commentaries on the Psalms* (*Commentaria in Psalmos*) 23.193. There is some doubt as to the authenticity of this text, but no decision can be made before a critical edition of the manuscript has been completed.

⁶² John Cassian, *Collections* 23.11. Text CPL 512.

⁶³ Jerome, *Notes on Galatians* 2.5.4. Text CCSL 77A.

generations.⁶⁴ Archi's case is made more plausible in the context of recent work by Caseau,⁶⁵ Pietri,⁶⁶ and Freu,⁶⁷ who have all adduced other places in the *Code* where the wording of constitutions was edited in line with Christian doctrinal terminology that did not yet exist when the constitution was originally promulgated. Freu argues specifically that "the evolution of the vocabulary used by the chancellery witnesses to the rapidity [of Catholic Christian influence in legal domains] . . . the use of the words *ecclesia* and *clericus* illustrates the influence of Christianity on juristic culture."⁶⁸ So, 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.⁶⁹ As Lucio De Giovanni showed, "the use of the expression *lex generalis* was established and systematically consolidated between the end of the fourth and the beginning of the fifth century."⁷⁰ The selection process involved in producing the *Theodosian Code* on the basis of 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.⁷¹

Sirmondian 12 mentions a series of "General Laws against the Donatists, the Manicheans, and other such heretics and Traditionalists" given in the years before 408; but the term itself, as one of legal art,

⁶⁴ "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.

⁶⁵ Caseau, "L'adjectif *profanus*."

⁶⁶ Pietri, "Les pauvres et la pauvreté dans l'Italie de l'Empire chrétien (IVe siècle)."

⁶⁷ Freu, "Rhétorique chrétienne et rhétorique de chancellerie."

⁶⁸ Pietri, "Les pauvres et la pauvreté," 210.

⁶⁹ Archi, *Teodosio II*, 72. De Giovanni proposed a number of *leges generales* from Constantine's reign. His examples include *CTh* 1.4.1, which is supposed to constitute "proprio in una *lex generalis* del 321," though the text of the statue does not support the conclusion, nor is the suggestion otherwise argued. De Giovanni, "Il diritto prima e dopo Costantino," 230.

⁷⁰ De Giovanni, "Il diritto prima e dopo Costantino," 228.

⁷¹ Sirks intimated as much in "Observations on the Theodosian Code: *lex generalis*, validity of laws," 147–148.

appears to be new to the Theodosian era.⁷² The fact that Theodosius II and Valentinian III issued a constitution⁷³ in 426 (the *Law of Citations*) 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.⁷⁴

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 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*). Interlocutory 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

⁷² ... *generalibus legibus contra Donatistas, Manichaeos adque huiusmodi 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*).”

⁷³ Sommariva, “La legge di Valentiniano III del 7 Novembre 426,” 285–287, 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*, 96–97, that these two fragments issue from the same constitution. I, with most, accept the standard interpretation (first proposed in 1665 by Jacques Godefroy, *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 their appropriation of the language in *CTh* 1.1.5 and 1.1.6.

⁷⁴ “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 Frier (ed.), *The Codex of Justinian*.

considered General (*nec his, quae specialiter quibusdam concessa sunt civitatibus vel provinciis vel corporibus, ad generalitatis observantiam pertinentibus*).⁷⁵

This *Law of Citations* was given from Ravenna on the 7th of November 426,⁷⁶ nearly three years before the commissioning of the *Theodosian Code* on the basis of the General Law concept.⁷⁷ 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 rein in its use by jurists and others with a wide array of significations in the years leading up to its first extant definition, 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. He argued that, mired in a thicket of inheritance and citational law, the issue presented a springboard from which to begin the process of legal reform centered on the concept of “generality.”⁷⁸ He concludes:

In general, the Ravenna legislation on legal sources 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 426.⁷⁹

A problem faced jurists in the Western chancery who were responsible for the first formal definition of General Law, and they used readily available concepts and language to solve it. It is apparently 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,

⁷⁵ 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.

⁷⁶ According to Otto Seeck's revised date. Seeck, *Regesten der Kaiser und Päpste für die Jahre 311 bis 476 n. Chr.*, 352.

⁷⁷ It is nearly certain that the constitution stood originally in the *Theodosian Code*. Matthews, *Laying Down the Law*, 66.

⁷⁸ Wetzler, *Rechtsstaat und Absolutismus*, 96–108. ⁷⁹ *Ibid.*, 108.

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), or whether it defines a newly relevant legal category, henceforth, when deployed in constitutions, the term General Law (*lex generalis*) is to have a purely technical meaning, such that it is of the same power as an edict (*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.”⁸⁰ Archi pointed out that before the promulgation of this constitution, “among Roman sources there is no equivalent to such a precise position.”⁸¹ However, as I have demonstrated, Archi’s statement only holds true if one’s definition of “Roman sources” excludes the mass of Roman Jewish and 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 here 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. 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, and the concept is invoked in different and increasingly specified ways throughout the *Code* itself. 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* (*CI* 1.14.3), but the revised *Theodosian Code* project of 435 disregarded it (1.1.6). 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 multivalence 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,

⁸⁰ Bassanelli Sommariva, “La legge di Valentiniano III del 7 Novembre 426,” 289.

⁸¹ Archi, *Teodosio II*, 15.

woodenly applied the concept to their own work in a legal domain. The juristic invocation of the concept of a General Law shows, rather, that the *language* of Christian scholarship had so suffused 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. It simply renders the concept slippery. But then again, what legal concept is not slippery when viewed on a long enough timeline?

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 sixty years since Kuhn's initial publication. The term "paradigm shift," however, has 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 to overinterpret dramatically a phrase that is, at present, relatively banal. 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.

"RESTING ON THE FORCE OF EDICTS OR ON SACRED IMPERIAL GENERAL LAW"

In 429 CE, Theodosius II and Valentinian III called for a new compilation of law "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 of "sacred generality/General Law (*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, which required the compilation of laws that were *generalis observantia* (1.1.6).⁸²

⁸² Bianchini, *Caso concreto e "lex generalis,"* 152.

The *Theodosian Code* was intended to be compiled "based on the structure (*ad similitudinem*)" of the Diocletianic codices, but the statute makes clear that the Theodosian product was to hold a fundamentally different status than the previous codices.⁸³ Unlike its predecessors, the *Theodosian Code* comprised but 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" (1.1.5). The final *Theodosian Code* as we have it was precisely intended for "more industrious types (*diligentiores*)," 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.⁸⁴ It was meant as the basis for a codification in the sense of an authoritative compilation. It is, in other words, fundamentally different from the Gregorian and Hermogenian codes, even though it is based on their structure. Whoever Gregorius and Hermogenian were, they were certainly not emperors, and their products did not carry the weight of juristic authority, nor were their productions apparently intended to do so. The Gregorian and Hermogenian were *codices*, but they were not *codes*.⁸⁵ 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 "special collection (οἰκείας 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

⁸³ The structure of the Diocletianic codes, in turn, was perhaps based on the structure of the Hadrianic *edictum perpetuum*, on which see Tuori, "Hadrian's Perpetual Edict: Ancient Sources and Modern Ideals in the Making of a Historical Tradition."

⁸⁴ Sirks, *The Theodosian Code*, 5–6 makes a compelling case that these earlier codices likely did not include outdated laws, or at least did not include them 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 of the collection, and later collections like the *Summaria Antiqua* regularly note in the margins laws which were old and disused by *haec inutilis est* or *superflua*, as discussed in Chapter 6. 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.

⁸⁵ Sirks, *The Theodosian Code*, 4–5. I explore this distinction in Chapter 5.

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, even though 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 "[a]ll the edicts and general constitutions that have been ordered to be valid or to be posted in definite provinces or in districts"⁸⁶ of the revised plan in *CTh* 1.1.6 was meant as a clarifying addendum, because the revised *Theodosian Code* project departed from the strict definition of generality promulgated the *Law of Citations* (*CI* 1.14.2–3).⁸⁷ 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 mere fact of the gap itself does offer much insight into the initial intention of the project. Additionally, the fact that it was *CTh* 1.1.5 – and *not* 1.1.6 – that was read out in the Roman senate upon its receipt in the West suggests that the gap between the intended project and the product received was not as great in the minds of ancient readers as it is in the analysis of modern scholars.⁸⁸

Christian influence on parts of the *Code*, and the wording of the 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 ideology of the Theodosian court.

⁸⁶ *Omnes edictales generalesque constitutiones vel in certis provinciis seu locis valere aut proponi iussae* ... *CTh* 1.1.6.

⁸⁷ Matthews, "The Making of the Text," 29. See Matthews's full discussion on 25–30.

⁸⁸ See *Gesta senatus urbis Romae* 4, about which I wrote in Chapters 5 and 8.

Jerome was certainly right in 399 CE to opine that "Caesar's laws differ from Christ's. Papinian prescribes one thing, and our own Paul another."⁸⁹ 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 ideological environment thoroughly inflected by scholarship on "Christ's laws." 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 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."⁹⁰ Priscus of Panium echoed the same concern and argument in a (possibly imaginary) exchange with a Greek-speaking Roman who he claims had been taken captive by the Huns. Judges should deliberate slowly, he claims, lest they "wrong a person or offend against god, the institutor of justice (τὸν τοῦ δικαίου εὐρετὴν θεόν). The laws apply to all, such that even the Emperor obeys them."⁹¹ The Western quaestor of 425–426 insisted on the same notion of universal jurisprudence: "they shall be subservient to all of the laws, to which even the emperors are subject."⁹²

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 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*

⁸⁹ *Aliae sunt leges Caesarum, aliae Christi; aliud Papinianus, aliud Paulus noster praecipit.* Jerome, *Letters* 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."

⁹⁰ ... *quasi culpam dignitas faciat, non voluntas. Apud nos, quod non licet feminis, aequè non licet viris; et eadem servitus pari conditione censetur.* Jerome, *Letters* 77.3.

⁹¹ Fragment 8.550–552. Text Bornmann. Translation Blockley, *The Fragmentary Classicising Historians of the Later Roman Empire*. On this trend see also *CI* 1.14.4.

⁹² *CTh* 10.26.2. On the identity of this quaestor see Honoré, *Law in the Crisis of Empire*, 252–257.

palati), the same jurist responsible for the definition of General Law in 426, was a member of both the first and second *Theodosian Code* commissions, as well as being a drafter of the two constitutions calling for the compilation of the *Theodosian Code* (in 429 and 435).⁹³ But his work in the chancery of Theodosius II was not relegated solely to juristic pursuits. He also corresponded with both Theodoret and Nestorius, two of the most influential theological minds of the 420s in Antioch and Constantinople, respectively.⁹⁴ Antiochus's ongoing relationship with Nestorius is borne out by arranging safe passage through Asia and Pontica for Nestorius⁹⁵ and, perhaps, his arrangements made on behalf of Celestine I, bishop of Rome.⁹⁶ Theodorus (*vir spectabilis, comes sacri nostri consistorii*) was on both commissions as well.⁹⁷ He is, in all likelihood, identical with the Theodorus (ὁ μεγαλοπρεπέστατος ἀπὸ κувεστόρων) present at the Council of Chalcedon.⁹⁸ Likewise Apollodorus, a member of the second commission, is almost certainly the same Apollodorus present at the Council of Chalcedon.⁹⁹ The legal scholars tasked with the compilation first of Theodosius's "guide to life (*magisterium vitae*)," and then the more modest *Theodosian Code* based on the novel concept of General Law, were not interlopers in the word of elite Christian theological scholarship – they were part of it.

I wrote earlier 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 CE, the accused bishop Dioscorus attempted to 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

⁹³ PLRE II, Antiochus 7.

⁹⁵ ACO 1.1.7 (p. 71n55).

⁹⁸ ACO 2.1.2 (p. 139).

⁹⁴ Theodoret *Epistle* 39 (SC 111).

⁹⁶ Celestine, *Epistle* 13.2.

⁹⁷ PLRE II, Theodorus 24.

⁹⁹ PLRE II, Apollodorus 5.

General Law (ἔβεβαίωσεν πάντα τὰ κεκριμένα παρὰ τῆς ἁγίας καὶ οἰκουμένης συνόδου νόμῳ γενικῶι).¹⁰⁰

Here, the official record of the council of 451, compiled and authorized by the court 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.”¹⁰¹ 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*.¹⁰²

Given the date and provenance of this Latin court document, there can be no doubt that we have here evidence of a Christian reimportation of the recently circumscribed definition 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 constitutions of 426 defining the legal force of the term General Law, 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.”¹⁰³ This change in

¹⁰⁰ ACO 2.1.1.53 (p. 75).

¹⁰¹ 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 at 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 Ivar August Heikel.

¹⁰² ACO 2.3.1.53, p. 50.

¹⁰³ *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.

Christian use of the concept 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, scholastic methods, and Christian universalizing aims. 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 framework of legal generality proves the extent to which Christian scholastic frameworks had suffused the legal scholastic frame by the time of the *Theodosian Code*. Clifford Ando has stressed the continuity of concepts such as *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"),¹⁰⁴ he wonders, "[h]ow 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?"¹⁰⁵ 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. I argue, however, that one fruitful avenue of analysis is to identify *newly minted* terms of legal art, and to try to understand their own genealogies, as I did earlier.¹⁰⁶ Such analysis demonstrates clearly that, in the Theodosian Age, government, law, and religion are indeed "mutually-implicated," because the clerical elite involved were often one and the same.¹⁰⁷ The rest of

¹⁰⁴ Ando, "Religion and *Ius Publicum*," 131. ¹⁰⁵ Ibid.

¹⁰⁶ Ando's chapter discusses a genealogy of the concept of *ius naturale* only with reference to juristic sources. I would suggest that in order to understand Justinian's use of the term as the language of the sixth century, 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.

¹⁰⁷ I 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." Ando, "Religion and *Ius Publicum*," 133. Heggelbacher's careful work

this book has sought to bear out this fact, along with its many implications.

The reconceptualization of civil law as the sort of discourse that could constitute a "guide to life (*magisterium vitae*)" demonstrates the extraordinary extent to which the law itself had been reimagined by the early fifth century. 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 imperially instigated 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. Imperial lawyers drafting constitutions such as those that called for the creation of the *Theodosian Code* already assumed a reimagined foundation of society in their language and in their call for a universal statement of orthodoxy such as the proposed "guide to life." Their work was in large part reactive, and serves as a particularly potent case study in the diffusion of Christian scholastic frameworks into the 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" 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.¹⁰⁸

Schiavone showed how legal categories came to define social realities. I argue that in Late Antiquity, social realities inflected legal categories.

The *Theodosian Code* is a quintessentially Theodosian document.¹⁰⁹ 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 Code*'s compilation as a universalizing statement of jurisprudential orthodoxy conceived on the concept of General Law (*lex generalis*) and in view of a "guide to life (*magisterium vitae*)" speaks to the extent to which peculiarly Christian structures of knowledge

on the Christian notion of *lex naturalis* in post-classical law suggests an alternative conclusion. Heggelbacher, *Vom römischen zum Christlichen Recht*, 8–43.

¹⁰⁸ Aldo Schiavone, *Ius: l'invenzione del diritto in Occidente*, 195–196.

¹⁰⁹ Kerr, "A Theory of Law," 111.

had suffused the imperial administration by the mid-420s. 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.”¹¹⁰ 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 such as *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.

¹¹⁰ Humfress, “Ordering Divine Knowledge in Late Roman Legal Discourse,” 161.

Bibliography

Note: Citations are meant as a guide to my argument – indicating direct interlocutors – rather than a guide to the fields of inquiry with which this book engages. In places I have noted one or two relevant studies for readers interested in delving deeper into a particular question, but nowhere have I intended to offer a survey of opinions on a particular topic, or to cite every discussion thereof.

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