

the interpolated Hispana, if the two collections did not emerge at the same time<sup>82</sup>.

A second and newer argument developed in support of Zechiel-Eckes's chronology rests upon the decretal forgery of Ps.-Evaristus, J<sup>3</sup> †42. Towards the beginning of this letter, Ps.-Evaristus describes the elements that constitute a lawful marriage, *ut a patribus accepimus et a sanctis apostolis eorumque successoribus traditum invenimus*. At BL 3.463, *De legitimo coniugio*, Benedictus Levita repeats the statement familiar from Ps.-Evaristus nearly verbatim<sup>83</sup>. Nobody has identified the source of this passage, which could be Pseudo-Isidore's own invention<sup>84</sup>. Benedictus Levita, then, joins Ps.-Evaristus in claiming that his doctrine represents long-standing apostolic tradition, a strange statement in the secular context of purported capitularies, but one that conforms readily to the rhetoric expected of papal decretals. Indeed, other decretal forgeries invoke patristic and apostolic precedent in very similar words. It has therefore been suggested that the legitimate marriage doctrine originated with Ps.-Evaristus, whence it found its way to the final book of the False Capitularies<sup>85</sup>.

Neither of these arguments can address or counter the overwhelming evidence for the False Capitularies as Isidorus Mercator's formal source. Pseudo-Isidore's approach to the chorepiscopate is indeed peculiar, but it compels no views on the matter of textual priority. The passages on legitimate marriage likewise do nothing to overturn the priority of Benedictus Levita<sup>86</sup>. A third attempt to save the parallelist

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82) ZECHIEL-ECKES, Der „unbeugsame“ Exterminator (as n. 9) p. 186–189. BL 3.260 is ed. PERTZ, MGH LL 2, 2 (as n. 1) p. 118. For the source analysis, cf. SECKEL, Studie VIII Teil II (as n. 7) p. 22–31. On the textual resonances in question, cf. also the early discussion of HINSCHIUS, Decretales (as n. 1) p. CXLIII–CXLV, critiqued in important ways by SCHMITZ, Verfälschungen (as n. 16) p. 135–141.

83) Compare Ps.-Evaristus, ed. HINSCHIUS, Decretales (as n. 1) p. 87; and BL 3.463, ed. PERTZ, MGH LL 2, 2 (as n. 1) p. 132.

84) Cf. the extensive analysis in SECKEL / JUNCKER, Studie VIII Schlussteil V (as n. 7) p. 43–61.

85) UBL, Inzestverbot (as n. 18) p. 326–327; seconded by SCHMITZ, Verfälschungen (as n. 16) p. 144–146, who elaborates on parallel phrasing in the decretal forgeries.

86) Cf. also KNIBBS, Date of the False Decretals (as n. 13) p. 152–153 n. 28 and p. 164–165 n. 68. Prior opinions on the question of internal chronology merely determine the explanation one applies to these passages: Those who place priority with the False Capitularies have tended to read BL 3.463 as an authenticum. The chorepiscopate argument is rooted in the older ideas of Wassersleben and reflects his limited knowledge of the forgeries, which was surpassed even at the moment he wrote.