Damian Bracken has shown that even in such cases direct borrowing from CCH cannot always be taken for granted, and that in certain cases it is more likely that both CCH and vernacular law borrowed from earlier compilations or florilegia.  

On the whole CCH and vernacular law cover much common ground. There are similar rulings on diverse topics such as theft, family law, marriage, contract law, suretyship, legal evidence, fasting, status, cities of refuge, precincts, burials, and tithes. There has been a tendency to stress the influence of CCH or its sources on native law, but this was certainly not a one-way street. In the process of filling in the gaps in their knowledge and broadening the applicability of their respective legal principles, canon law and secular law frequently overlapped each other. CCH can be regarded as an exponent of this development. It is a unique piece of work, compact, user-friendly and suitable for practical use, and its popularity was such that modern historians are still trying to find their way in the 'great forest of writings' which it contains and on which it drew.

103. Bracken, 'Latin passages'.
Dating the Irish Synods in the 
Collectio Canonum Hibernensis

Michael Richter

Abstract. An attempt is made here to narrowing down the time in which the Irish synods excerpted in the CCH were held. It is suggested that they post-date the discussions in Ireland concerning the paschal question in the years between roughly 630 and 640. These synods are not mentioned in the Irish annals, but when viewed together they show that the Romani were not necessarily more progressive than the Hibernenses. The latter, however, also show an awareness of Irish secular law which would appear to pre-date the compilation of the corpus of Irish law.

Keywords: Bertulf, Bobbio, canon law, Columbanus, exemptions, Hibernenses, Hughes, Iona, paschal controversy, Romani, secular law.

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There is general agreement among the early medieval scholars that the Collectio canonum hibernensis (CCH) is one of the major sources for a study of the early Irish church. It is equally clear that a new edition of this source will lead to new insights of major proportions. However, for the time being Wasserschleben’s edition from 1885 is still the work most easily accessible and will have to be used faute de mieux.

The last wide-ranging treatment of the early Irish church, by Kathleen Hughes, which celebrates its thirty-third birthday this year, still looks enviably fresh. It was also Hughes who made the most dynamic use of the Irish synods in CCH in her book on the Irish sources. Her ideas are still worth pondering. On the other hand, there have been substantial developments in early Irish history over the past generation, partly due to the work of Hughes, but also independent of that.

CCH is important for a variety of reasons. Foremost among these are its sources, and these are of three kinds: biblical, foreign and Irish. I will deal only with the Irish material, and my principal aim is to suggest a more precise dating of this material than has been considered up until now. It will be seen that in this work I can draw on more recent scholarly research which, I think, can be pushed just a little further. Let it be added at the outset that a number of important aspects cannot be satisfactorily clarified at this stage, but it may be useful nonetheless to spell these out.

Here we are concerned with only part of the Irish material in CCH, those sections of CCH which are titled as Sinodus romanus and Synodus hibernensis and variants thereof. I will not deal with the material ascribed in various ways to Patricius. This has been discussed elsewhere, and while no agreement has been reached, so much seems clear that dates before 600 would appear to be generally accepted. This material thus emanates from a period of early Irish society from which the written sources are very few, certainly when compared to the seventh century.

As far as I can see, the suggestion that the Romani in CCH (though not in every case) were Irish ecclesiastics was first made by Bury almost a century ago, and has since been accepted generally. For obvious reasons the Hibernenses never posed a problem in that respect. Bury wrote: 'The only theory which seems to me to cover all the facts is that in the Hibernensis, Sinodus Romanus (or Romani) designates synods held in Ireland in the seventh century in the interest of Roman reform, and under the influence of its advocates'. After Bury, these terms have been associated more specifically with the Easter dispute in Ireland, yet Hughes still refers to the various parties generally as 'seventh century'. I believe that this dating can be modified.

The division of the Irish Christians into Romani and Hibernenses has been connected with the dispute over Easter. In this area very substantial progress has been made over the past generation, and we thus do not have to get involved with the highly technical aspects of this issue. It is an altogether different question of how the Easter dispute should be assessed generally as regards Irish Christians. It is easily overrated simply due to the great amount of scholarship that it involved then and involves now. Here I should like to lean again on Hughes and her suggestion that this dispute was not nearly as divisive within Ireland as it appears in the works of Bede. But this is not my central concern. I accept this interpretation and in fact build upon it. Where I differ from other scholars is the time during which this division may have been meaningful.

I want to begin with the historical background to the Easter dispute. It seems to have been opened by a letter of pope Honorius I to the Irish clerics, referred to by Bede, not quoted but paraphrased, admonishing them to conform in this question with the rest of Christendom:

4. Hughes, Church, 44–49.
6. Hughes, Church, 106.
7. Perhaps the most substantial contribution has appeared in 1988: M. Walsh & D. Ó Cróinín (ed), Cummann's letter De controversia paschali et De ratione computandi (Toronto 1988). More recent work is used and listed in D. Ó Cróinín, Early medieval Ireland, 400-1200 (London 1995).
8. Hughes, Church, 108–09. Beyond this, one could also mention that Adomnán, abbot of Iona, did not apparently forfeit the respect of his community when he changed his mind over Easter and was unable, as abbot (!), to carry his monastic community with him. AU has s.a. 716: Pascha computatur in Eoa civitate. Hughes, Church, 109 n 2, pleads for 704 as the time when Iona adopted the Roman Easter. For Adomnán and his Iona community see also J. -M. Picard, 'Bede, Adomnán and the writing of History', Peritia 3 (1984) 50–70; cf. also M. Richter, Ireland and her neighbours in
That pope Honorius was ‘aware of developments among the ultimi habitatores mundi’ is stated by Bede himself. But how did this awareness come about at that time? This letter has recently been linked with the Irish monastery of Bobbio. In 628 pope Honorius I granted an exemption to the monastery of Bobbio, apparently one of the first, if not actually the first, of such privileges.

The exemption was granted on the initiative of abbot Bertulf of Bobbio, in other words to the one monastery in Italy where the Irish Easter practice vigorously defended earlier by Columbanus was apparently still observed. It would appear that in 628 a deal had been done whereby the community of Bobbio bowed to the Roman Easter in exchange for the exemption. Unfortunately we know next to nothing about direct contacts between Bobbio and Ireland at that time, yet it would appear that news of this development in Bobbio would have quickly become known in Ireland, and I take it that the initiative of Cummian in the Easter issue, which is fortunately quite well documented and has been well contextualised, was a result of these news. This has been plausibly placed in between 628 and 631.

This Cummian is not known apart from the highly important letter which he addressed to Ségène, abbot of Iona, and Béccán the hermit (otherwise unknown) on the Easter issue asking them to conform.

As is well known, Cummian was only partially successful. Thus Hughes stated in 1966: ‘Cummian did not succeed in persuading Ségène of Iona to join the Roman observance’. This is factually correct. But it obscures an important point which has been left without much comment ever since: it is most likely that Ségène was behind a letter addressed to the bishop of Rome on the issue of Easter by a number of northern clerics. It would thus appear that Cummian was at least partly successful with his paschal letter to Ségène and Béccán. Only a reply to this letter, and only as a fragment, has been preserved, again by Bede. Its address shows who was involved on the Irish side:

the seventh century (Dublin & New York 1999) 68–69.
10. Ó Crónín, Early medieval Ireland, 166–67.
11. ibid. without giving a reference to the original document, which is not identified either in the work of Eric John given by Ó Crónín as his source, 166 n 83.
12. PL 80, 483–84; for a scholarly edition see C. Cipolla (ed), Codice diplomatico del monasterio di S. Colombano di Bobbio i (Rome 1918) 100–03 (no X).
13. Richter, Ireland and her neighbours, 209 with further references.
15. Hughes, Church, 107.
Dilectissimis ct sanctissimis Tomiano, Columbano, Cronano, Dimao et Baithano episcopis; Cronano, Ermanioque Laisrano, Scellano et Segeno presbyteris; Sarano ceterisque doctoribus seu abbatibus Scottis ....

In this letter it is stated explicitly: 'Scripta quae perlatores ad sanctae memoriae Severinum papam adduxerunt'.

This text is not without problems, not least in naming Ségéne as priest, not abbot. If the address of the Roman reply generally reflects the order of names which were contained in the letter from Ireland, it would be a very important document concerning the prominence of bishops in the Irish church in the mid-seventh century. But another point is quite clear: according to the letter from the north of Ireland and Iona, down to this time, 640, those clerics who are named in the letter by pope-elect John, must be considered as much potential Romani as the clerics in the circle of Cummian.

As is also well-known, pope-elect John and his supporters in their reply letter accused the Irish clerics of heresy. Rome was misguided in this respect, however, it was only thereupon that apparently these clerics no longer felt the urge to turn to Rome. The crucial point for our purposes is that until then they had shown the same general attitude as had Cummian and his circle. I have not found this point made anywhere in the literature, but it would seem to me an important point for the present discussion.

This would amount to the clarification that a divide of Irish clerics into Romani and Hibernenses makes best sense after 640, and perhaps not immediately after the arrival of the missive from Rome. One would like to know how this terminology arose, but here it is only speculation that can be suggested. I suppose that the respective labels were coined by the opposite group, and the earlier label could well have been that of Romani, but they appear to have been quickly accepted.

The importance of the Irish synods in CCH is self-evident. They provide a rich and varied body of unique normative texts about many aspects of the Irish church. In CCH, this information is found in a great number of small items throughout the text. It assumes a new appearance if it is excerpted and juxtaposed. Generally speaking, the Romani have been considered as reformers, thus modernisers, in contrast to the Hibernenses, considered traditionalists. Until now, most use has been made of the Irish material by Hughes. She writes: 'There is still a lot of unexplored material in Irish canonical collections, though they have been in print for some time. The authors of many books on the Irish Church seem never to have read them. The canons certainly force a very considerable revision of the views widely held on Irish ecclesiastical history before 750'.

16. HE ii 19; Plummer, 123.
17. ibid.
18. This has been discussed fully by Dáibhí Ó Cróínín, "New heresy for old": Pelagianism in Ireland and the papal letter of 640', Speculum 60 (1985) 505–16.
I am here not so much interested in the details contained in this section of CCH as in the time scale presented by the material as a whole. If this can be plausibly refined, then the material itself can be explored more profitably. It would appear that the range of the material makes it more than likely that rulings of several Irish synods mentioned in CCH are involved and that they date from the second half of the seventh century. One is thus dealing with a period notably fruitful and reform-active. Synods are not mentioned in the Irish annals for the period, which can be taken that they were considered as a normal part of Irish church life. However, they can also be taken as evidence that there was a corporate responsibility felt among Irish ecclesiastics to act together. Furthermore, the synodal decisions must have been cast in written form to be available later to the compilers of CCH. This is also a point worth keeping in mind. I cannot explain why the Irish annals do not list any such synods which could be included with this legislation during that period and indeed earlier, which is all the more surprising since the annals then were undoubtedly monastic products.

Obviously, the foregoing suggestions have implications which go well beyond CCH. The term Romani appears in a number of theological works and these Romani are normally considered as the more dynamic scholars in Ireland. On the other hand, the term Hibernenses in the sense elaborated here is not used at all, if we except the famous Würzburg account of the computist Mo Sinu maceu Min which happens to name both parties:

Mo Sinu maceu Min, scriba et abbas Bennehuir, primus Heberennesium computum a Graeco quodam sapiente memorialiter dedicit. Deinde Mo Chuo rōc maceu Neth Sémon, quem Romani doctorem totius mundi nominabant, alumnusque praefati scrbae, in insola quae dicitur Crannach Dún Lethglaise hanc scientiam literis fixit, ne memoria laberetur.20

By our previous reasoning, this text would have been formulated in the second half of the seventh century.

One may be tempted to suggest that all the theological works from Ireland in the second half of the seventh century—and there are quite a few of them—not ascribed to Romani may be tentatively looked for in the camp of the Hibernenses who, on this count, would appear just as respectable as the Romani.

The question, of course, remains in what form the material of the Irish synods was available to the compilers of CCH. While the rift over Easter within the Irish church may well have been over by the time CCH was established, it may not be without relevance that the two clerics who are believed to have been instrumental in the work came from the two respective areas, Cú Chuimne from that of the Hibernenses, Ruben from the Romani of old. The material which they selected for inclusion shows

20. The text is emended according to the reproduction of the original in Daibhí Ó Cróinin, ‘Mo-Sinu maceu Min and the computus of Bangor’, *Portia* 1 (1982) 281–95, text 283, reproduction 284. Ó Cróinin translates Hibernenses as ‘Irish’ and Romani as ‘Romans’, *Early medieval Ireland*, 177; see also Richter, *Ireland and her neighbours*, 214.
that the ideological background to this division was largely immaterial for their work. In any case, it enriches our sources and therefore our grasp of this aspect of early Irish society very substantially.

Irrespective of the traditional dating of the Irish synods and of that suggested here, another issue must be raised here. It was Hughes again who pointed out, in 1966 and more clearly even in 1972, that the Synodus hibernensis legislation in CCH touches upon problems of Irish secular law. She writes: 'I think that some of the seventh-century canonists of the “Irish” party may have had some training in the secular law, or at least to have been advised by jurists. If not, then the educated Irishman must have understood the technicalities of the law very well'. A little further on she writes: 'The Irish canonists ... were trying to fit the church into the native legal system. The secular jurists were working towards the same end'.

Hughes wrote her major contributions to the early Irish church before the publication of Binchy’s Corpus iuris hibernici. This corpus has now become the point of departure for further studies of the early Irish law. It would appear that here is also a lacuna to be declared: the scholars concerned do not seem to have re-read Hughes. They may otherwise have commented in detail on the fact that the Irish canonists seem to pre-date the written early Irish law. Parallels between the Latin legal material and the material in the Irish language, on the other hand, have been noted by Hughes and others. This would indicate that expertise in these laws was available reliably before they were written; in other words, the Irish canonists in CCH exclusively in Latin are the earliest available texts that make use of the secular Irish law. In this respect, they deserve even more attention than even Hughes requested. They offer access to Irish secular law prior to the traditionally accepted date of its codification. The ramifications of this vista are as yet unforeseeable.

APPENDIX

THE IRISH SYNODS IN CCH

I. Synodus Hibernensis, Hibernenses

Nunc ecclesiae multis modis offerit Domino, primo pro se ipsa, secundo pro commemorazione Jesu Christi, qui dicit: hoc facite in meam memoriam, tertio pro animabus defunctorum. (2:9)

Quia Aaron sumebat partem uniusciusque oblationis sive principis sive famuli, et sedatum commune de substantia omnis mortui dandum est. (2:14)

Sinodus Hibernensis in hoc sedatum ovem aut praetium ejus statuta demensione censuit. (2:15)

21. Hughes, Sources, 77.
22. ibid. 79.
Communioiis nomen hoc est, viaticum, id est viae custodiam; custodit enim animam usque dum steterit ante tribunal Christi, cui refert sua, prout gesserit propria, nec archangelus potest ducere ad Vitam, usque dum judicaverit eam Deus, nec Zabulus ad poenam traducere, nisi Dominus damnaverit eam. (2:16)

Sinodus decrevit, ut sacerdos omne quod superfluum habeat, det ecclesiae, et quantum ecclesiae demerit, tantum ecclesia demat de superfluis ejus. (2:20)

Sinodus definit, ut sacerdos non accipiat munera ejus, cujus conscientiam non novit. Quantum enim illi hostia non prodest, tantum huic doni nihil nocent. (2:22)

Sinodus Hibernensis decrevit, ut sacerdos una tantum die ab ecclesia defuerit; si duobus, penitentiam secum habeat, et si autem mortuus ad ecclesiam adlatus fuerit et ille absens, penitere debet, quia poenae reus illius est. (2:25)

Sic vero ceteri catholicci superjurare ausi fuerint, quod ignorant et quod dubitatur a multis, utrum sit verum an non, sequentes eos, qui mundiales sunt, periculum perjuriium jurant, qui adhuc aeris suas in manus reproborum tradiderunt. (16:6)

Timendum est etiam testimonium plurimum, nam aut amicitia aut audacia aut pretio pravantur. (16:9)

Si quis in ecclesia conjunctus fuerit, in ea sepelietur. (18:3)

Monachus cum in vita sua libertatem praeter jussionem abbatis non habuerit, quanto magis in morte? (18:3)

Si quis commendaverit animam suam et corpus et omnia, quae habet Deo et principi, id est abbatii suo, et si postea exierit ad alterum abbatem, et commendaverit illi animam suam et omnia, quae possedit, cujus erunt haec omnia? Prioris utique abbatis omnia sua, si tamen vatum ejus illo vivente non tacuit, novissimo vero abbati relinquitur et corpus ejus, et vestimentum et equus et vacca, vel si tanti honoris fuerit, duo equi cum curro et ornamentum sui lectuli et vas, de quo biberat; tamen prior abbas offere poterit pro anima monachi sui discedentis ab eo. (18:6)

Omne corpus sepultum habet in jure suo vaccan et equum et vestimentum et ornamentum lecti sui, nec quidquam horum redditur in alia debita, quia corporis ejus tamquam vernacula debentur. (18:6)

Quicumque discesserit de sua ecclesia, et in alia ecclesia sepultus fuerit, cujus propinquus veniens, corpus mortui mutare volens, dabit pretium sepulcri prioris, hoc est vac-
quantum imperatim

Sed aedem familia miserationem animae ejus in die VII fecerit, redde tentum ejus et sedatum communionis, si sacerdos postulaverit, sic erit, etsi monachus fuerit; si vero peregrinus, vestes tantum dimittat. (18:7)

Sedes Patriarcharum et cathedra legis deordinata fuit, cum reges et judices et personas dignas non habuerit, nisi ab alienis eas evocasset. Item: Ab Hierusalem nuntii missi sunt Romam ob alias causas. Item: Romana ecclesia misit nuntios ad Alexandriam ob alias causas. (20:4)

Sors aut inter duo dubia aut inter duo aequalia aut inter duo catholica mitti debet. (26:5)

Omnis homicidae, si toto corde conversi fuerint, VII annorum penitentiam districte sub regula monasterii peniteant. (28:10)

Primum furum in ecclesia peractum vice tamen reddi et peniteri ad judicium sacerdotis, et hoc pro indulgentia ecclesiae facit. Et si secundo factum fuerit, duplo vel quadruplo reddi. Quod si mundialis hominis pecunia ablata sit et ecclesia sit catholica et ab omni censu libera, damnnum domino restituetur, et usura ejus erit ecclesiae. Si vero ecclesia fuerit sub censu regali, damnnum idem domino restituetur et usura regi et ecclesiae erit. (29:6)

Item si per vim raptum fuerit, non reddetur, si per negligentiam, reddatur, et si non senserit, si ista animalia non vencerint, in custodia hunc reliquid, redde hinc dimidium; si autem in die alicujus custoderit alius, reddetis cujus deest. (30:4, note. c)

Omnis depositum reddatur, nisi depositum ecclesiae matris omnium baptizatorum. Sicut enim omnis mater vicem depositi perdit filio suo non reddit, ita omnis ecclesia catholica filiorum suorum deposita, quamvis sint perdita, reddere non debet. (30:5)

Item sinodus eadem: Si quis custodiverit clavem domus, et fur subfoderit eam, et furatus fuerit depositum alicuius, non reddet is, qui accurrit, sed jurabit omnis domus illius, quanto magis, si cum pecunia sua furatum est. (30:5)

Quicunque filios procreaverit causa posteritatis, nutrire debet, ne suae carnis homicida sive dispecor existat, dicit enim scriptura: Carnem tuam ne despexeris. (31:19)

Definimus, ut omnis penitens non omnia sua reliquiat fillius suis, et liber exspectet Christum, qui omnia dabat necessaria. (31:20)

Auctores ecclesiae hic multa addunt, ut feminae heredes dent ratas et stipulationes, ne transferatur hereditas ad alios; (32:20)

Testamentum infirmi est, ut suo ministro partem de mobili substantia et aliam partem hereditibus, aliamque ecclesiae tribuat in pretium sepulcri. Hereditas autem dividitur inter regnum et ecclesiam et heredes. Si autem non habuerit regnum, tertia pars ministrorum erit, si autem non habuerit ecclesiam, dividet propinquii et ministri. (32:22)

Considerandum est opus mercenariorum, et tunc merces reddenda est. (33:6)

Omnis mercenarius opus suum cito consumit, ut cito accipiat. Item: Omnis mercenarius ad oculum servit, ideo exactor praeponendus est ei. Item: Mercenarius deserit oves in quantum mercenarius, et non congregat dispersum, et quod fractum, non fovet. (33:6)

Sinodus Hibernensis statuit, quintam partem debiti in pignus tribui, ut in lege [Lv. 6: 5, Nm 5:7] dicitur: Redde quintam partem, et si non solverit pignus suum usque ad certum tempus, non solvet in aeternum, et reddet totum debitum, nisi miserearis illius. (33:9)

Non est dignus fidejussor fieri servus, nec peregrinus, nec brutus, nec monachus, nisi imperante abbate, nec filius, nisi imperante patre, nec femina, nisi domina, virgo sancta.
(34:3) Sinodus Hibernensis dicit, ut rata reddat debita, pro quibus fixerat manus, ita ut prima vice XV diebus exspectet debitorum, secunda vice XX diebus, tertia vice XXX diebus, quarta vice XL diebus; postea sine rebellione reddat debitum: item alii alter dicunt, ut, si pro vivo, prima vice X diebus exspectet, secunda vice v dies, si vero pro mortuo, XXX diebus. (34:4)

Debitor reddat, quantum rata solvit et quantum fatigatus fuerit, si autem humanus fuerit, rata non quaeret usuram, nisi tantum quod solvit rata, et quantum fatigatus fuerit, si vero inhumanus fuerit, uno anno crescit usura, et omne debitum reddat, et quintam partem debiti in omni mense unius anni. (34:5)

Si una stipulatio fuerit, sortientur, et debitor jurabit alter super alterum; si vero alter duos vel tres testes habuerit, a pluribus erit juramentum, et debitor reddet, aut cum pluribus testibus renuet; si autem stipulationes inter se dissentiant, sortientur, nisi fuerit testes, et si mendax sit altera pars, aut solvet debitum, aut penitebit, quantum valet debitum. (34:7)

Omnis debitor, qui resitit testibus et stipulationibus, ejiciatur, donec secundum judices peniteat. (34:8)

Juramentum fillii aut filiae nesciente patre, juramentum monachi, nesciente abbate, juramentum pueri et juramentum servi non permittente domino irrita sunt. (35:5)

Quidquid per annos remanserit, hoc est usque ad annum jubileum, in unius jure transgrediens, sine murruratione aut excommunicatione in perpetuo non revertetur. (36:7)

Aliis tibi opponituribus jubileum respondebis: annus jubileus de rebus venditis et comodatis ex cohereditibus propris ad homines catholicos est, non de antiquis commendatio, non de his, quae sine pretio fiunt, non de his, quae venduntur ex alienis hereditatibus, non de his, quae inter regem et ecclesiam fiunt, quia rex proprium ecclesiæ quanto tempore non subtrahet, ita et ecclesia jus regis, non de his, quae fiunt inter fraternes, quia fratres fratrem non fraudat. (36:10)

Oportet omnem principem, ut terra sit ad sustinendum, gubernator sit ad corrigendum, anchora sit ad sustentandum, malleus sit ad percutiendum, forceps sit ad tenendum, sol sit ad illuminandum, ros sit ad madefaciendum, pugillarius ad scribendum, liber sit ad legandum, speculum sit ad conspiciendum, terror sit ad terrendum, imago sit in omnibus bonis, ut sit omnia in omnibus. (37:3)

Oportet eum, qui vult principari, prius monachum esse, et eum, qui vult hereditare, prius pium esse, qui vult docere, prius discipulum esse. (37:7)

Definimus omnem principem non ordinandum, nisi vocatis clericis et parochia in unum consentientibus. (37:20)

Sinodus totius mundi et Patricius decrevit: Qui insipiens est, nullo modo præesse licet, set sub manu abbatis catholici opus suum exerceat. (37:29)

Si qua contumacia inter principem et monachos ejus per discordiam aliquam orta sit, non rejiciat pastor gregem suum in dispersionem, nec oves pastorem fugiant, sed invicem pacificentur, dicentes [Ps 42]: ... (37:37)

Monachus graece latine unialis, sive quod solus in heremo vitam solitariam ducit, sive quia sine impedimento mundiali mundum habitet, sive quia in hac vita solus, etsi inter multos habitet iniquos, versetur. (39:1)
Hi sunt modi excommunicationis omnis hominis mali a concelebratione, a communicatione mensae, a cohabitatione, a benedictione, a colloquio pacifico, a commenatu, a munerebus. (40:1)

Princps in sua morte etiam de rebus ecclesiae commendare potest, hoc est pretium ancillae, sive de mobili substantia, sive de agro. (41:4)

Testamentum episcopi sive principis est X scriptuli sacerdoti dantis sibi sacrificium, sagum pauperi, viaticum cibi viduae, commune vestimentum ministro, et haec tamen firmamentur a clericis. (41:4)

Sicut sine permesso abbatis monachus nihil commendare audebit, ita degens sub censu potestatem non habebit donare aliquid in morte sua, nisi jubi bene domino suo. (41:8)

Si quis fuerit sub censu regali aut abbate et commendaverit aliquid, si audierit et tacuerit dominus II diebus, non potest retrahere, sin vero, irritum erit. (41:9)

Si vir ejus tacuerit II diebus, ne retrahe et quodcumque dedit, si vero non tacuerit, irritum erit ejus testamentum praeter corporis sui rationem, et sagum et vacam cum corpore suo, si habuerit, ecclesiae, cui servierit, quandom quod ejus in ira suo fuerit, ex consensu viri tertiae partem substantiae suae dabit; sed vir ejus distribuet, cetera vero viri sui et filiorum ejus erunt. (41:10)

Ager inquiratur in scriptione duarum ecclesiarum, si in scriptione non inventatur, requiratur a senioribus et propinquis, quantum temporis fuit cum altera, et si sub jubileo certo mansit, sine vivperatione maneat in eternum. Si vero senes non inventi fuerint, dividant. (42:8)

Quicumque infantes in ecclesia Dei projiciunt ignorante abbatte, si in ea episcopi sunt sepulti, aut praesentes sint, III annis et dimido peniteant. Si vero homicidium in ea fecerint, VII annis peniteant. Unde hoc sumptum est, quod episcopus VII gradus habet et ecclesia septiformis est, si vero non habuerint episcopos, sed parva sit ecclesia, anno et dimido peniteant. (42:22)

Si ecclesia solverit vinculum de vinculo, det vincula pretii penitentiae super eum, si vero ille non impleverit penitentiam, et fecerit aliquid malum, non veniet maledictum super ecclesiam Dei, ecclesia enim habet potestatem ligandi et solvendi, et libera est, et unusquisque in eam debitor est. (42:27)

Si ecclesia sub censu regis deguerit et mundialibus quibusdam funibus consticta sit, non est digna solvere vinculum, nam si solverit, reddet debita delictorum ejus. (42:28)

Non reddet ecclesiam in tribulatione delicta aliorum; sicut non venient delicta daemonum super deum aut angélos ejus, sic non venient delicta membri super membra Christi, id est super sanctos, nec monachorum fugientium ab ecclesia, neque peregrinorum pessimorum, neque eorum, qui ejiciuntur super ecclesiam, id est collectorum malorum, nec cognitionum mundialium, sed mundiales delicta aliorum mundialium, quae commiserunt in ecclesia, ecclesiae reddent; similiter mali fratris delictum non maculabit fratrem religiosum sive spiritualiter sive mundialiter in delicto ejus reddendo. (42:29)

Primum delictum uniueusiusque mali hominis veniet super substantiam suam et pecora, secundum, si non habuerit substantiam aut pecora, veniet super regiones suas, si non habuerit regionem, veniet super regem suum, si non habuerit regem, veniet super eum, qui arma dedit et vestimenta Illius, qui delictum fecit, sin vero, postremo veniet super
illum, qui cibavit illum et lectum dedit. Si vero nihil de his omnibus inveniatur, et delin-
quat in ecclesia, quae auctor a rege maximo provinciae, in qua est ecclesia ista. (42:30)

Si ecclesia dederit cibum illi, qui delictum fecerit, non veniet delictum malum hominis
super ecclesiam propter cibum datum ab ecclesia malo homini, quia columba vera est,
columba enim non suis tantum pullus ministrat, sed omnibus avibus aperientibus os
suum; ita omnibus servit ecclesia, Domino dicente: Estote perfecti, sicut pater vester
coelestis perfectus est, qui solem suum oriri facit super bonos et malos, super justos et
injustos. (42:31)

Defendit se ecclesia etiam post obitum principum suorum, et non juratur super illam, id
est, super decessores, quia viva sunt verba illorum. hoc exemplo sanctae scripturae: Et
patres nostri narraverunt nobis, non sunt occulta a filiis eorum. Et illa jurat super
mortuos mundiales, et ideo non juratur super illam, quia libera est, et non ergastulum.
(42:32)

Placuit, ut advena accipiat locum inter monasteria; cum vero datum ei locum obtinere
non potuerit, ad suum monasterium revertetur, unde venerat. Si ab infidelibus accipit, et
non potuit obtenire, accipiat pretium ejus ab hercibus, aliis vero vendi non poterit. Si in
cuo plantaverit reliquias sanctorum, potest dare aliis clericis, sed tantum perfectis oportet.
(43:5)

Placuit, ut princeps, qui se ipsum non dedit aut sua, sed tamen servavit ecclesiae, si
ejectus fuerit, aut voluerit abscedere, dimittat dimidium seminis in pecoribus ecclesiae, et
quod ei datum, relinquit intactum, nisi quod necessitas loci illius exegerit ab eo, et quod
secum intuit, tollat. Si ipse dominatricem aut ministros conduxit, in sua parte erunt, si
vero causa loci conduxit, cum parte loci exibunt, et omnes oblationes alienorum inter
principem et ecclesiam dividetur in separatione; sed si princeps sacerdos catholicus sit,
omen autem labores, quos ille fecit, et omnia loci ornamenta, loci erunt, et quidquid ipse
laborans impenderit, de substantia loci non reddet, exceptis rebus maximis et propriis, id
est, specialibus ecclesiae vasibus. Aliis vero placuit, quod in primo anno sparsit, quando
egenus fuit, in separatione non reddet. (43:6)

Terminus sancti loci habeat signa circa se. (44:3)

Quatuor terminos circa locum sanctum posuit, primum, in quem laici et mulieres in-
tranter, alterum, in quem clerici tantum veniunt. Primus vocatur sanctus, secundus sanctior,
tertius sanctissimus. Nota nomen quarto defecisse. (44:5)

Quicumque reliquias episcoporum vel martyrum homicidio violaverit, VII. annis
peregrinis penitent, si vero furto, illi. annis; si autem in termino loci sancti occiderit, in
quo laici hospitantur, anno I. Indulgemus vero posteriora tempora, l. dies, quia non locus
sanctus dicendus est, in quem homicidae cum spoliis, fures cum furtis, adulteri et perjuri
et precones et magi intrant. Et non solum omnis locus sanctus debet intus mundari, sed et
ejus termini, qui consecrati sunt, mundi esse debent. (44:8)

Basilion graece, rex latine, hinc et basilica, regalis, quia in primis temporibus reges
tantum sepeliebantur in ea, nomen sortita est; nam ceteri homines sive igni, sive acervo
lapidum conditi sunt. (44:20)

Nemo alienus libertatem scindendi basilicam sine principis permissione habet, et si
hoc ausus fuerit, reddet secundum dignitatem ejusdem loci. (44:20)

Pallium a palliditate dictum, hinc et palliata sive Pallas Dea, quae et Minerva, cujus
templum pallidum est, cujus sacerdotes virgines erant palliatae, hoc est velatae; hinc
mutata specie eodem nomine perseverante, licet in novo ad palliatas, hoc est velatas
censeri permissum est. (45:10)
In tribus quadragesimis anni et in dominica die et in feriis quartis et in sextis feriis con-
juges continere se debent. (46:11)
Item: In omnibus solemnitatibus et in illis diebus, quibus uxor praegnant, hoc est, a die,
quo filius in utero ejus motum fecerit, usque ad partus sui diem. Item: A partu per XXXVI
dies, si masculus, si vero filia, XLVI dies. Item: Habitabantibus illis in habitu religioso

copulari non permittitur. (46:11)
Si quis legitimam conjugem aliquos corruptit et superseminaverit semen, ut pregnans
sit mulier, filius ille erit corporis, a quo genus est, sed tamen premitum filii et educandi
ejus dabit, quantum judices judicaverint; si vero adulterium superseminaverit, nihil red-
det corruptor, nec adulter dabit aliquid adultero, nisi forte confessio filio premitum
educandi. (46:30)
Omnis adulter sive a concelebratione, sive a communicione mensae, sive a cohabi-
tatione sive a benedictione, sive a colloquio, sive a comituatu, usque dum peniteat, exclu-
dendus est. (46:31)
Omnis, qui ausus fuerit, ea, quae sunt regis aut episcopi furari, aut raperet aut aliquid in
eos committere, parviparidens dispicer, VII ancillarum premitum reddit, aut VII annis
peniteat cum episcopo vel scriba. (48:5)
Canis solito catenatus, quidquid mali fecerit in nocte, non reddet a domino suo, si
vero in die violaverit aliquem, reddet dominus ejus. Canis vero pecorum quidquid mali
fecerit in bovello aut in pasces suorum pecorum, non reddet a domino suo; si vero
extra fines exierit, reddet pro eo, quidquid mali fecerit. (53:5)
Pilax si quid mali fecerit nocte, non reddet dominus ejus, in die vero nocens, reddet.
(52:8)
Gallinae si devastaverint messem aut vincam aut hortulum in civitate sepe circum-
datum, quae altitudinem habet usque ad mentum viri, et coronam spinarum habuerit, red-
det dominus earum, sin vero, non reddet. Si vero foras exierint ultra siccatorium, domi-
nus reddet, si aliquid mali fecerint. (53:9)
Caro ferarum ad eum licita, quia magis aeregrinem vitalium, quam saturitatem gignit.
Quidam eam similem carni reliqua dicunt, quia saturitatem ventris, ut alia caro, praestat,
tamen ecclesia has III carnes esui consecravit. (54:10)
Tria sunt, quae peccata aliena non sustinet: primo largus homo, si domum suam cum
omnibus communem habet, secundo pecora innocentium, quorum fructus et labor
communia sunt omnium, nihil quarentia, nisi victum et victus, quo vivunt, non hominis,
sed Dei, tertio servus domino suo fideliter serviens. (58:3)
Ut in nihil alius pecus damnetur, nisi in suum peccatum, sive hominem occidendo, sive
infirmando, sive alius pecus occidendo, sive fenum, sive messem devastando. (58:4)
Qui praebet ducatum barbaris, XIV annis peniteat. Barbarus, id est alienus; quis est
alienus, nisi qui more crudeli et immani cunctos prostrerit. (59:2)
XIV annos hac de causa nunci sunt senatores, si basilicas episcoporum incenderint, vel
si hominem religiosum sive sanctimoniale occiderint vel prostraverint, sive innocentes
de ecclesia subtraxerint, ductor VII annos sua causa, VII annos alios causa daturum
peniteat. (59:3)
Si quis artifex opus inertiis faciat, et ferramenta usque ad dimidium quaesiverit, dimidium pretium habebit, sin vero, tertiam partem aedificii sui accipiet, ut sit tertia pars operarii, tertia cibo et ferramentis, unde judices habebunt, hoc est, judex ab artificibus et judex a praesidentibus ecclesiae vel castelli, et quantumcumque voluerit, secundum operationem judicabunt, non secundum utilitatem, postea autem artifex habebit pretium benedictionis. Sic judicabuntur et alia dona. Qui vero noluerit secundum hoc concilium facere, fiat excommunici, et nemo eam accipiat, et in morte carebit communione. (63:1)

Tres petitiones Patricii sunt, quarum prima est, ut bipartitae vel tripartitae regionis pars ecclesiae propinquiori aliis detur ei, secunda, ut non per juramentum ab aliquo firmetur super ecclesiam infirmam, tertia, ut clericus similis quaeratur a laico. (66:5)

II. Synodus Romana, Romani

Episcopus, qui alterius episcopi parochiam rapit, excommunicandus est, nisi legitimo ordine penitentia a pace et missa et mensa. (1:22)

Sinodus Romana dicit de oblationibus eorum: Contentus tegmine tantum et alimento, caetera dona iniquorum reprobatur, quae reprobabat altissimus, quoniam non sumit lucerna nisi quo alatur. (2:23)

Synodus dicit: De abstinentia insolubili a cibis statuunt Romani, ut Christi adventus sponsi nullas nostris jejunii leges inveniat. Quid enim interest inter christianum et Novatianum, nisi quod Novatianus indesinenter abstinet, christianus vero per tempora jejunat, ut locus et tempus et persona omnia observet. (12:15)

Valde boni non egent remedium post mortem, quia se ipsos in vita sua liberaverunt; pro valde malis non est necesse, quia de his judicatum est, non esse fructuosum, nisi tantum elemosina accipienda a vivis et pauperibus dividenda; pro non valde malis et pro non valde bonis oblatio et oratio et elemosina et jejunium danda sunt, si tamen in vita professi sunt, quod crediderunt. (15:2)

De contentione duorum sine testibus statuunt, ut per quatuor sancta evangelia, antequam commonnicet, testetur, qui adprobatur, deinde sub judice flamma reliquinatur. (16:14)

Vir sive mulier in suo paterno sepulcro sepeliatur. b. Dicitur enim: Maledictus omnis homo, qui non sepelitur in sepulcro patrum suorum. Jacob, antequam moriret, obtestatur Joseph filium suum, ut corpus ejus in paterno sepulcro redderet. Ita Joseph postea obtestatur filios Israel, ut ossa ejus reportarent in terram repromissionis, dicens: asportate ossa mea hinc vobiscum. (18:2)

Non degredetur unaquaque provincia, sed apud semet ipsum habeat judices et episcopos. (20:3)

Si in qualibet provincia ortae fuerint questiones, et inter clericos dissidentes non convenient, ad majorem sedem referantur, et si illic facile non discutiantur, ubi fuerit sinodus congregata, judicentur. (20:5)

Judices sunt XV: I episcopus, II sacerdos, III judex, IV rex, V scriba. (21:2)

Non ad rerum defensionem facta est ecclesia, sed judicibus persuadendum, ut spirituali morte occidant eos, qui ad sinum ecclesiae transfugerint. (28:14)

Qui patrem et matrem in necessitate relinquit, eum excommunicandum esse censuimus. (31:15)
Omnis qui fraudat debitum fratris ritu gentilium, excommunicis sit donec reddiderit. (33:1)

Quatuor ab ecclesia tollenda sunt, iuramentum, contentio, usura ac omne negotium seculare. (35:4)

Sinodus ait de venditis adsueltis: licet verum numquam veteratur, observandae sunt tamen leges jubilei, id est anni quinquagesimi, ut non affirmentur incerta tempore veterato, et ideo omnis negotiatio subscriptione affirmaenda est. (36:8)

Sinodus Romana tribus modis excommunicari decrevit, hoc est, ex pace et mensa et missa. (40:1)

Nihil monachus in morte sua commendare potest, sed relinquat omnia abbatii. Cum enim in vita sua nihil proprium habet, quanto magis in morte? (41:6)

Episcopus major dividet et minor elegant, quia Abraham diviset, Loth tantum elegit. (42:23)

Filius allatus servus est ejusdem, nisi depreliatur, nec noxa ejus maculabit ecclesiam, si protervus sit, si tamen, in quantum valet, corripuerit filiis allatus ecclesiae. Si intra c dies ab ea discesserit, nullam potestatem habebit, sed ad nutrimentum ius pertinebit; si ecclesia pecuniam sumserit a parentibus in quantumcumque nutrimentum more parentum erit filius, si infans mortuus fuerit per negligentiam, viiannis peniteat, quia Christum necaverunt. Hinc aliis judicant, ut viiannis peniteant, qui infantes proiciunt, ut, quantum malum inlexerint in ecclesia Dei, tantum accipient. (42:24)

Qui ambulat inter frates in forma agentis, petens aliquas res, non recipiatur a fratibus, nisi commendetur ab aliquibus cognitis catholicis. (42:25)

Palliatae, hoc est velatae magno honore habebantur, quia sexum, hoc est fragilitatem vincunt, et se mundi actibus abdicant. (45:13)

Decet mulieres, sicut fragilitatis sexum acceperunt, districte semper vivere sub manu pastoralis regiminis; virgines habitu virginitatis ornatae sine omnium virorum conspectibus segregentur, et sic vivant usque ad mortem; penitentes vero obedientiae subditae sint, et quanta expertae sunt fragilitatem, tanto fieri cautores debent. (45:14)

Is qui habuit primam uxorem virginem ante baptismum, vivente illa alteram habere post baptismum non poterit, quia crimina in baptismo solvuntur, non tamen legitimum conjugium. (46:29)

Superstes frater thorium defuncti fratris non ascendet, dicente Domino: Erunt duo in carne una, ergo uxor fratris tui soror tua est. (46:35)

Romani de penitentia dicunt: Post ruinas statuitur, ut abbas penitentiam provideat, et si fiet cum fletu et lamentatione et lugubri veste et sub custodia, melior est penitentia brevis reddenda, quam longa et remissa cum tepore mentis, in qua nihil stricte agitur. (47:8)

Petrus primus clericus tonsurando usus est, gestans in capite imaginem coronae spinace Christi. (52:2)

Romani dicunt, quod quinque causis Petrus tonsuram acceptis: prima, ut praedixi, ut adsimularet spineam Christi coronam, secunda, ut clericis laicos in tonsura discretionem haberent, et sicut in habitu, ita operibus discernenterunt, tertia, ut sacerdotes veteris testamenti reprobaret suscipiendo tonsuram in illo loco capitis, ubi columna super caput Christi descendit, quarta, ut divinione gannituram in regno Romano suscepturum propter deum sustineret, quinta, ut a Simone mago christianorum discernere tonsuram, in cujus
capite cesaries ab aure ad aurem tonsa anteriore parte, cum ante magi in fronte cirrum habebant. (52:3)

Brittonum tonsura a Simone mago sumpsisse exordium tradunt, cujus tonsura de aure ad aurem tantum contingebat, pro excellentia ipsa magorum tonsurae, qua sola frons anterior tegi solebat, priorem autem auctorem hujus tonsurae in Hibernia subulcum regis Loigairi filii Neili exitisse Patricii sermo testatur, ex quo Hibernenses pene omnes hanc tonsuram sumpserunt. (52:6)

Qui se ostendunt quasi discipulos esse, et incogniti sunt, adducant secum a fratribus, quibus cogniti sunt, quedam commendantem eos; si autem non adduxerit, dantem testimonium pro eis, non recipiantur propter seductores, qui se quasi discipulos perfectos ostendunt, sed sunt lupi rapaces. (56:4)

Oportet filios, ut cum ad annos pubertatis venerint, cogantur aut uxores ducere aut continentiam prosectari ecclesiae; filiae vero cadem aetate aut castitatem aut nuptias elegant voluntate paterna. (56:16)