

Reform and conquest : the penitential ordinance of John of Ivry, archbishop of Rouen (1067-1079)

This article examines a little-known penitential ordinance (*constitutio*) issued by John of Ivry, archbishop of Rouen (1067-1079). Surviving thanks to a single copy in an English manuscript of the late 12th or early 13th century, now housed in the Bodleian Library, Oxford, the text is contemporaneous to the famous ordinance drawn up by the bishops of Normandy following the Battle of Hastings and then confirmed by Ermenfrid, bishop of Sion (1054/5-c. 1087), whose interventions as papal legate in the affairs of the Anglo-Norman realm are well known¹. John's own career has likewise been the subject of recent study, and his archiepiscopate is notable for its conciliar, judicial, literary and political legacy². A regular correspondent of Lanfranc, archbishop of Canterbury (1070-1089), he was himself a key participant in the reform of the Norman Church, which gathered pace in the wake of the conquest of England. In spite of this, John's ordinance has never been examined in detail before and has escaped the attention of most scholars³. This article looks not only to offer the first detailed analysis of the ordinance, but also seeks to put it within its wider historical, ecclesiastical and liturgical context. In doing so, it will attempt to shed light on the circumstances in which it was written, on the practice of penance in 11th-century

¹ H.E.J. COWDREY, « Bishop Ermenfrid of Sion and the penitential ordinance following the Battle of Hastings », *The Journal of Ecclesiastical History*, 20, 1969, p. 225-242.

² R. ALLEN, « "A proud and headstrong man" : John of Ivry, bishop of Avranches and archbishop of Rouen, 1060-79 », *Historical Research*, 83, 2010, p. 189-227.

³ I have been able to find only two references to the ordinance, namely *Councils & synods, with other documents relating to the English church. I, A.D. 871-1204*, D. WHITELOCK, M. BRETT and C. BROOKE (ed.), 2 vols., Oxford, Clarendon Press, 1981, t. II, p. 583 and J. BLAIR, *The church in Anglo-Saxon society*, Oxford, Oxford University Press, 2005, p. 416 n. 196. I am grateful to David Bates for bringing the first of these to my attention.

Normandy, and, most importantly, on the reasons behind its survival in an English context when there is seemingly neither mention nor copy of it in Normandy itself. An accompanying critical edition of the ordinance will also make the text readily available for the first time.

The manuscript tradition by which the ordinance has been transmitted to us is at once simple and somewhat complex. Simple, because it survives in an easily accessible, single copy (Oxford, Bodleian, MS. Barlow 37, fol. 50r-v) ; complex, because the manuscript in which it is found is comprised of a large corpus of miscellaneous texts, including those ostensibly assembled by Wulfstan, bishop of Worcester (1002-1016) and archbishop of York (1002-1023), to form his so-called « Commonplace Book ». Fortunately, its association with this well-known collection means the manuscript has been the subject of much analysis by those interested in Wulfstan's work, with the result that a simplified description of it can be quite easily given⁴. Written in four hands writing English pregothic minuscule, the manuscript, which preserves much material originally compiled in early 11th-century England, can be divided into two parts: fols. 1r-61v and fols. 62r-158r. The first part, which is distinguishable from the

⁴ For what follows, see D. BETHURUM, « Archbishop Wulfstan's Commonplace Book », *Publications of the Modern Languages Association*, 57, 1942, p. 916-929 ; *Theodulfi Capitula in England : die altenglischen Übersetzungen, zusammen mit dem lateinischen Text*, H. SAUER (ed.), Munich, W. Fink, 1978, p. 50-53 ; H. SAUER, « Zur Überlieferung und Anlage von Erzbischof Wulfstans "Handbuch" », *Deutsches Archiv für Erforschung des Mittelalters*, 36, 1980, p. 341-384 ; *Wulfstan's canon law collection*, J.E. CROSS and A. HAMER (ed.), Cambridge, Cambridge University Press, 1999, p. 49-55 ; H. SAUER, « The transmission and structure of Archbishop Wulfstan's "Commonplace Book" », in P.E. SZARMACH (ed.), *Old English prose : basic readings*, London, Garland Press, 2000, p. 339-394, at p. 343-354 ; M.D. ELLIOT, « Wulfstan's Commonplace Book revised : the structure and development of "block 7", on pastoral privilege and responsibility », *The Journal of Medieval Latin*, 22, 2012, p. 1-48 ; id., « Canon law collections in England ca. 600-1066 : the manuscript evidence », unpublished PhD thesis, University of Toronto, 2013, Appendix XI, p. 913-996.

second by both its ruling and its contents, contains extensive marginalia drawn from various canonical sources popular in the 12th and 13th centuries (Burchard's *Decretum*, Gratian's *Decretum*), which are written by one of the main scribes, who also annotates the second part of the codex. The contents of the manuscript can be broadly outlined as follows:

Folios	Contents
1r-45v	Excerpts of theological and legal material going back to Wulfstan's « Commonplace Book »
45v-62r	Excerpts of penitential and canonical texts forming a sort of <i>Liber penitentialis</i>
62r-97r	Excerpts from Burchard of Worms, <i>Decreteum</i> , and Ivo of Chartres, <i>Decretum</i>
97r-116r	Penitential canons and sentences of the church fathers
116v-121v	Excerpts from Hugh of St Victor (<i>Quid sit fides</i>)
122r-124r	<i>Quaestio de pueris ante baptismum defunctis</i>
124r-158r	Collection of works from various authors, including Augustine, St Anselm, Lanfranc, Bernard of Clairvaux and Hugh of St Victor

Table 1 Contents of Oxford, Bodleian Library, MS. Barlow 37

It is, of course, the first part of the codex that is of most interest for the purposes of this article, and in particular the second half of this part. It begins with a series of liturgical rites (*ordines*) of confession, which help define the proper liturgical forms for this ritual (fol. 45v-47r). There then follows a series of penitential chapters (fol. 47r-50r), announced by the rubric '*Liber penitentialis incipit de gravissimo homicidio episcoporum, dominorum, sacerdotum, parentum. Hec est constitutio de homicidio*', many of which are drawn from the *Decretum* of Burchard of Worms, and in particular from Book 19, a penitential manual known as the *Corrector, sive Medicus*⁵. An augmented version of the *Paenitentiale pseudo-Gregorii III* begins on folio 50v with

⁵ Burchard, *Decretorum libri viginti*, in *Patrologia Latina*, J.-P. MIGNE (ed.), 221 vols., Paris, 1844-1864, t. CXL, cols. 943-1013.

the rubric ‘*Hic incipiunt iudicia penitencium, et que sit vera remissio peccatorum*’ and continues to fol. 54v⁶. The rubric ‘*Modus penitentie laicorum*’ marks the start of a series of penitential chapters, which opens with a copy of the early 11th-century penitential attributed to Fulbert, bishop of Chartres (1006-1028) (fol. 54v-55r)⁷. This section is followed on fol. 59r by a number of texts on the sacrament of communion, drawing on such authorities as Augustine, Ambrose, Hrabanus Maurus, Gregory the Great and Lanfranc.

As for its origins, the manuscript was bequeathed to the Bodleian Library by its namesake, Thomas Barlow, provost of The Queen’s College (1658-1677), Bodley’s Librarian (1652-1660), and bishop of Lincoln (1675-1691), who seems to have acquired it sometime in or before 1668⁸. It is unclear who was in possession of the manuscript immediately prior to Barlow, but the note ‘Brian Stapleton his book’, written in a 15th- or 16th-century hand on fol. iii, suggests it once belonged either to Sir Brian Stapleton of Suffolk (d. 1519) or Brian Stapleton of Carlton, Yorkshire (1534-1606), whose name is also found inscribed in two manuscripts at the British Library and another at the John Rylands Library in Manchester⁹. The contents of the manuscript offer few clues in relation to its medieval origins, since the majority of the texts copied therein are so common as to be universal. Of course, the manuscript’s

⁶ For a critical edition, see F. KERFF, « *Das Paenitentiale pseudo-Gregorii : eine kritische Edition* », in *Aus Archiven und Bibliotheken. Festschrift für Raymund Kottje zum 65. Geburtstag*, H. MORDEK (ed.), Frankfurt am Main, 1992, p. 161-188.

⁷ For a critical edition of the penitential, see id., « *Das sogenannte Paenitentiale Fulberti* », *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung*, 72, 1987, p. 1-40 at p. 30-33.

⁸ The note « *Liber Tho: Barlow e coll. Reg. Oxon. xiii. cal. jul: MDCLXVIII* » is written on fol. iii (R.W. HUNT, F.W. MADAN, and H.H.E. CRASTER, *A summary catalogue of Western Manuscripts in the Bodleian Library at Oxford*, 7 vols., Oxford, Clarendon Press, 1895-1953, t. 2, pt. 2, p. 1057).

⁹ H. SAUER (ed.), *Theodulfi Capitula in England...*, *op. cit.*, p. 53.

association with Wulfstan has led some to suggest that it may be a product of the *scriptorium* at Worcester¹⁰.

But analysis of an excerpt concerning accidents involving the eucharist, which is found on fol. 49r-v (no. 17, Table 2), just before the text of Archbishop John's ordinance, suggests another possible origin for the manuscript. To drop or spill the eucharist was a serious offence that incurred penalties for the individual offender as well as for the community of which he was a part¹¹. The customs of Cluny and those written by William of Hirsau (d. 1091) prescribe the measures to be taken in the event of such an accident¹², as do the *Monastic Constitutions* compiled by Lanfranc for Christ Church, Canterbury¹³. These stipulate not only the rituals by which spills were to be dealt with but also the penitential acts to be performed by those responsible. Previously unidentified, the excerpt in Barlow 37 is almost identical to that found in a composite volume dating from the mid-12th century, also housed in the Bodleian Library (MS. Wood empt. 4), which contains a copybook of monastic customs¹⁴. Unfortunately, much like Barlow 37, while this manuscript has been identified as

¹⁰ R. MEENS, *Het tripartite boeteboek : overlevering en betekenis van vroegmiddeleeuwse biechtvoorschriften (met editie en vertaling van vier Tripartita)*, Hilversum, Verloren, 1994, p. 68 n. 202 ; H. SAUER, « The transmission and structure... », *op. cit.*, p. 341 ; S. HAMILTON, « Remedies for “great transgressions” : penance and excommunication in late Anglo-Saxon England », in F. TINTI (ed.), *Pastoral care in late Anglo-Saxon England*, Woodbridge, Boydell Press, 2005, p. 104 ; A.J. KLEIST, *Striving with grace : views of free will in Anglo-Saxon England*, Toronto, University of Toronto Press, 2008, p. 334 n. 12.

¹¹ For what follows, see C. JONES, « Monastic custom in early Norman England : the significance of Bodleian MS. Wood Empt. 4 », *Revue Bénédictine*, 113, 2003, p. 135-168, 302-336, at p. 149-151.

¹² *Vetus disciplina monastica*, M. HERRGOTT (ed.), Paris, 1726, p. 278-279 (Cluny), 478 (Hirsau).

¹³ *The monastic constitutions of Lanfranc*, D. KNOWLES and C.N.L. BROOKE (ed.), Oxford, Clarendon Press, 2002, p. 134-136.

¹⁴ Oxford, Bodleian, MS. Wood empt. 4, fol. 15r ; ed. in C. JONES, « Monastic custom ... », *op. cit.*, p. 305-306.

No.	Folio	Rubric	Incipit
1	45v-46r	<i>Ordo ad revocandos penitentes ex penitentiali Romano. De confessione et penitencia et reconciliatione, et eorum interrogatione qui peccata sua confiteri desid[er]ant</i>	<i>Credis in deum patrem omnipotentem</i>
2	46r-v	<i>Admonitio</i>	<i>Nunc tibi vitia principalia sunt explicata</i>
3	46v-47r	<i>Alia admonitio VIII principalium vitorum</i>	<i>Ergo si superbus fuisti usque modo</i>
4	47r	<i>Sacerdos</i>	<i>Scito, O homo, nullum tibi adversari potuisse</i>
5	47r	<i>Homo</i>	<i>Ut bene viverem ultro promisi</i>
6	47r-48r	<i>Liber penitentialis incipit de gravissimo homicidio episcoporum, dominorum, sacerdotum, parentum. Hec est constitutio de homicidio</i>	<i>Quicumque homicidii [sic] sponte patrati</i>
7	48r (a)	<i>Ex penitentiali Theodori. De illis que ante sanguinis mundationem ecclesiam intrant</i>	<i>Mulier nec intret ecclesiam</i>
8	48r (b)	<i>Ex concilio Elibertano. De cibo gentili</i>	<i>Si quis fidelis cum judeo manducaverit</i>
9	48r (c)	<i>Ex penitentiali Romano. De illis qui comedunt vel bibunt aliqui ab immundis animalibus tactum vel intinctum</i>	<i>Qui scienter comedit vel bibit</i>
10	48r (d)	<i>De potu in mundo</i>	<i>Qui dederit alicui liquorem</i>
11	48r-v	<i>De offascinate</i>	<i>Si quis crediderit pullos ancarum</i>
12	48v (a)	<i>Ex penitentiali Theodori. De illis qui animalia a bestiis dilacerata vel laqueis strangulata comedunt</i>	<i>Animalia, que a lupis vel a canibus lacerantur</i>
13	48v (b)	<i>De apibus</i>	<i>Apes si hominem occiderint</i>
14	48v (c)	<i>De pannis altaris aliquo casu madefactis</i>	<i>Si contigerit pannum aliquem altaris</i>
15	48v-49r	<i>Ne pannum et vinum super altare maneant in consecratione nisi que ad sacramentum pertinent</i>	<i>Si enim fuerit panis et vinum</i>
16	49r	<i>Si quis panem vel vinum in conscreatione obliviscatur apponere</i>	<i>Si per negligentiam sacerdotis evenerit</i>
17	49r-v	<i>Si quis negligenter agat in custodiendo corpus aut sanguinem Christi</i>	<i>Si aperta quod absit negligentia de corpore</i>
18	49v	<i>Quid hostie fractio significet</i>	<i>Hostia quam frangimus in tres partes</i>
19	49v-50r	<i>De tribus ad altare stacionibus</i>	<i>Stationes tres quas sacerdos ante altare</i>
20	50r-v	<i>Hec est constitutio Johannis Rothomagensis archiepiscopi. De penitentia criminalium peccatorum</i>	<i>Criminalium patratore peccatorum</i>

Table 2 Bodleian Library, MS. Barlow 37, fol. 45v-50v

English in origin its provenance cannot be traced beyond the early modern period. The excerpt concerning accidents involving the eucharist, however, is almost identical to that on the same topic found in the customary-ordinal of Norwich Cathedral Priory (Cambridge, Corpus Christi College, MS. 465), which was copied between 1258 and 1265¹⁵. As has already been noted, various early monastic customaries contain precepts relating to accidents with the eucharist, to which can be added those found in later customaries from Westminster and St Augustine's, Canterbury¹⁶. But the close textual parallels between the passage as it appears in Barlow 37, Wood empt. 4 and CCCC, MS. 465 are to be found nowhere else, suggesting a possible Norwich link between them. As we shall see below, while such a link cannot be proved definitively, it may explain the means by which Archbishop John's ordinance was transmitted to England in the first place.

As for the ordinance itself, it is the earliest of its kind to survive from the ecclesiastical province of Rouen and is seemingly unique with regards to Normandy's ducal period (911-1204). Its closest contemporary is, of course, the famous penitential ordinance issued in the wake of the Battle of Hastings. John's ordinance differs, however, in that its audience is a general one, rather than those who had participated in a specific act of warfare. Whether the issuance of the two ordinances was in any way linked is impossible to know, especially since neither can be dated precisely¹⁷.

¹⁵ Cambridge, Corpus Christi College, MS. 465, 147v-148v ; ed. *The customary of the Cathedral Priory Church of Norwich : ms. 465 in the library of Corpus Christi College, Cambridge*, J.B.L. TOLHURST (ed.), London, Henry Bradshaw Society, 1948, p. 219-220.

¹⁶ C. JONES, « Monastic custom ... », *op. cit.*, p. 150-152.

¹⁷ On the Ermenfrid ordinance see G. Garnett, « Coronation and propaganda : some implications of the Norman claim to the throne of England in 1066 », *Transactions of the Royal Historical Society*, ser. 5,

But the fact that Ermenfrid's ordinance specifies that those guilty of certain crimes were to do penance « as if they had sinned in their own country » (*acsi in patria sua peccassent*)¹⁸ can be read as either presuming the existence in Normandy of the sort of tariff's prescribed by John's ordinance or as perhaps providing the necessary impetus for them to be drafted.

Whatever the case may be, it is hardly surprising that Archbishop John should have taken steps to regulate this aspect of ecclesiastical life in the duchy, since his career is characterised by efforts to reform and regularise religious practices throughout Normandy¹⁹. As bishop of Avranches (1060-1067), he wrote a brief treatise on Norman liturgy entitled *Liber de officiis ecclesiasticis*, which aimed to create a synthesis from the various customs (*consuetudines*) then current in Normandy²⁰, while in regularising his relationship with the nearby abbey of Mont Saint-Michel he helped to create a procession that would form part of the region's liturgical landscape for centuries to come²¹. It was during his reign as archbishop that a manuscript containing the observances of the church of Rouen was drawn up, of which a fragment concerning the city's Palm Sunday procession still survives²², and it was also under his aegis that the cathedral *scriptorium* produced the *Acta archiepiscoporum Rotomagensium*, a *gesta episcoporum* that is noteworthy for its unity of both

36, 1986, p. 91-116 at p. 95-96. John's ordinance can be dated no more precisely than by the years of his archiepiscopate, that is 1067 to 1079.

¹⁸ D. WHITELOCK, M. BRETT and C. BROOKE (ed.), *Councils & synods...*, *op. cit.*, p. 583.

¹⁹ For what follows, see R. ALLEN, « "A proud and headstrong man" ... », *op. cit.*, p. 189-227.

²⁰ *Le De officiis ecclesiasticis de Jean d'Avranches, archevêque de Rouen, 1067-1079*, R. DELAMARE (ed.), Paris, 1923.

²¹ *Chroniques latines du Mont Saint-Michel (IX^e-XII^e siècle)*, P. BOUET and O. DESBORDES (éd.), Caen, Presses universitaires de Caen, 2009, p. 376-377.

²² R. ALLEN, « "A proud and headstrong man" ... », *op. cit.*, Appendix II, p. 219-221.

historiographical and hagiographical purpose²³. John's archiepiscopate is also notable for its conciliar activities. These include the promulgation of an *ordo* seemingly designed to serve as a model for the conclusion of the acts of a synod²⁴, as well as two great reforming councils held in 1072 and 1074²⁵, to which, as we shall see below, it is possible that we should add a third.

But if the ordinance serves as yet further proof of John's efforts to reform and regularise the liturgical practices of the late 11th-century Norman Church, it can hardly be considered a text of great sophistication. Unlike the penitential handbooks from which its basic outlines are drawn, it makes no effort to distinguish either between the different degrees of crimes it legislates for, or between the various members of medieval society who might commit them. It is unclear, therefore, whether the ordinance is supposed to apply to clerics or to laymen, or indeed to both. As for the so-called « criminal sins » (*peccatum criminale*) to which it relates (murder, adultery, perjury, fornication, theft), it also makes no effort to distinguish between the various forms these could take. Perjury, for example, was often divided between perjury under compulsion and wilful perjury. The latter was tariffed by three or seven years, or according to the various clerical grades as contrasted with the laity, for whom the penance was sometimes four years²⁶. John's ordinance, by contrast, imposes a blanket

²³ For discussion and an edition, see id., « The *Acta archiepiscoporum Rotomagensium* : study and edition », *Tabularia « Documents »*, 9, 2009, p. 1-66.

²⁴ *Die Konzilsordines des Früh- und Hochmittelalters*, H. SCHNEIDER (ed.), Hanover, MGH, *Ordines de celebrando concilio*, 1996, p. 107-111, 568-574.

²⁵ For the canons of John's councils, see *The Ecclesiastical History of Orderic Vitalis*, M. CHIBNALL (ed.), 6 vol., Oxford, Clarendon Press, 1969-1980, t. II, p. 284-292 ; *Concilia Rotomagensis Provinciae*, G. BESSIN (ed.), Rouen, 1717, p. 64-66.

²⁶ The *Paenitentiale Pseudo-Romanum* (= Book VI of Halitgar's *Paenitentiale*), for example, prescribes three years of penance for a layman guilty of perjury, six years for a subdeacon, seven for a

penance of seven years irrespective of the type of perjury committed or the person committing it. Likewise, fornicators are expected to perform seven years of penance, even though handbooks such as the *Paenitentiale Theodori* prescribe differing lengths of penance according to whether the act of fornication was with a virgin (one year), a married woman (four years), a man or beast (ten years) or a parent (fifteen years)²⁷. Murder is similarly rendered somewhat one-dimensional by John's ordinance, catering for none of the nuance evident in handbooks such as the *Paenitentiale pseudo-Theodori*, which offers thirty-nine precise prescriptions covering a range of possible perpetrators, victims, motives, circumstances and results²⁸. Even the ultra-short, near-contemporary penitential attributed to Fulbert of Chartres makes the effort to ascribe different lengths of penance to different perpetrators, and to distinguish between spontaneous, premeditated and attempted murder, along with that committed « in public war » (*in bello publico*)²⁹.

But perhaps such overarching simplicity is emblematic not of a lack of sophistication on John's part, but rather of the need to impose some unity on a Norman penitential landscape that was then lacking in definition. Evidence of both the codification and practice of penance in Normandy before John's reign is sporadic at best. There is nothing to suggest, for example, that the cathedral of Rouen (or any other in

deacon, ten for a priest and twelve for a bishop (*Die Bussbücher und die Bussdisciplin der Kirche*, H.J. SCHMITZ (ed.), 2 vol., Mainz, Verlag Franz Kirchheim, 1883-1898, t. I, c. 22-23, p. 477).

²⁷ *Die Canones Theodori Cantuariensis und ihrer Überlieferungsformen*, P.W. FINSTERWALDER (ed.), Weimar, H. Böhlau, 1929, p. 290-291.

²⁸ C. VAN RHIJN and M. SAAN, « Correcting sinners, correcting texts : a context for the *Paenitentiale pseudo-Theodori* », *Early Medieval Europe*, 14, 2006, p. 23-40 at p. 26.

²⁹ F. KERFF, « Das sogenannte ... », *op. cit.*, p. 30.

Normandy) possessed at this time copies of any of the major penitential handbooks³⁰, while it is equally difficult to find traces of penitential texts among the collections of neighbouring abbeys³¹. Indeed, besides a manuscript from Saint-Martin de Sées, in the far south of the duchy³², the only surviving early 11th-century « Norman » manuscript with penitential material comes from the abbey of Jumièges, but this part of the codex, which contains a fragmentary copy of the texts going back to Wulfstan's « Commonplace Book », is English in origin³³.

Evidence of the practice of penance is equally difficult to find and tends to be limited to grand public acts by the dukes. Richard I (943-996), for example, donned a penitent's hair shirt shortly before his death and asked to be buried for penitential reasons under the eaves of the abbey of Fécamp, where his son and successor, Richard II (996-1026), was also later interred³⁴. Likewise, Robert I (1027-1035) perhaps undertook his ill-fated pilgrimage to Jerusalem as penance for the murder of his

³⁰ There is no mention of such a manuscript in the earliest catalogue of the cathedral's library, which dates from the beginning of the 12th century (*Catalogue général des manuscrits des bibliothèques publiques de France. Départements. Tome Premier, Rouen*, H. OMONT (ed.), Paris, 1886, p. x-xi).

³¹ For a reconstruction of the medieval libraries of some of the major Norman abbeys, see G. NORTIER, *Les bibliothèques médiévales des abbayes bénédictines de Normandie : Fécamp, Le Bec, Le Mont Saint-Michel, Saint-Évroul, Lyre, Jumièges, Saint-Wandrille, Saint-Ouen*, Caen, Caron et Cie, 1966, p. 193-231.

³² This manuscript contains a copy of the penitential attributed to Fulbert of Chartres (F. KERFF, « Das sogenannte ... », *op. cit.*, p. 6).

³³ The manuscript was perhaps given to the abbey by Robert Champart, abbot of Jumièges (1037-1044) and bishop of London (1044-1051) (J.E. CROSS, « A newly-identified manuscript of Wulfstan's "Commonplace Book" : Rouen Bibliothèque Municipale 1382 (U 109), fols. 173r-98v », *Journal of Medieval Latin*, 2, 1992, p. 63-83 at p. 64).

³⁴ L. MUSSET, « Les sépultures des souverains normands : un aspect de l'idéologie du pouvoir », in J.-M. BOUVRIS et J.-M. MAILLEFER (ed.), *Autour du pouvoir ducal normand, X^e-XII^e siècles* (Cahiers des Annales de Normandie 17), Caen, 1985, p. 19-44 at p. 21-23.

brother³⁵, while William the Conqueror (1035-1087) and his wife, Mathilda, founded the abbeys of Saint-Étienne and La Trinité de Caen allegedly as penance for their consanguineous marriage³⁶. Although such examples are often first reported by later authorities³⁷, certain 11th-century Norman texts, such as the *Miracula s. Audoeni*, do record the undertaking of similar penitential acts by lower members of society³⁸. Moreover, those 11th-century Norman charters that contain an injunction clause might sometimes stipulate that the anathema with which transgressors would find themselves struck could be removed through penance (*satisfactio*, *satisfactio pœnitens*, *nisi pœnituerit*)³⁹, and some might even make mention that a particular grant had been made in penance for a particular act of wrongdoing⁴⁰, but such examples are rare.

The Norman conciliar record prior to 1067 also contains only two references to penance, one of which suggests that its imposition was not always in accordance with

³⁵ D. DOUGLAS, *William the Conqueror : the Norman impact upon England*, London, Eyre & Spottiswoode, 1964, p. 35-36.

³⁶ L. JEAN-MARIE, *Caen aux XI^e et XII^e siècles : espace urbain, pouvoirs et société*, Caen, Éditions La Mandragore, 2000, p. 34-36.

³⁷ For example, the foundation of the Caen abbeys as an act of penance is first mentioned by Miles Crispin and Orderic Vitalis (M. BAYLÉ, *La Trinité de Caen : sa place dans l'histoire de l'architecture et du décor romans*, Genève, Droz, p. 3-4).

³⁸ The *Miracula* record how a thief caught stealing a woman's mantle was made to go on penitential pilgrimage (*Miracula s. Audoeni, Acta Sanctorum*, August IV, p. 836).

³⁹ See, for example, *Recueil des actes des ducs de Normandie de 911 à 1066*, M. FAUROUX (ed.), Caen, Caron, 1961, nos. 57, 59 ; *Regesta Regum Anglo-Normannorum : the Acta of William I (1066-1087)*, D. BATES (ed.), Oxford, Clarendon Press, 1998, nos. 159, 172, 254, 275 ; *Chartes servant de pièces justificatives à la géographie du Perche et formant le cartulaire de cette province*, O. DE ROMANET (ed.), Mortagne, Imprimerie de l'Écho de l'Orne, 1890-1902, no. 142.

⁴⁰ Such was the case with regards to the grant of four churches made to the cathedral of Chartres by Duke Richard II, who gave them in penance for the destruction he had caused in the city's environs (M. FAUROUX (ed.), *Recueil des actes...*, *op. cit.*, no. 15). See also, *ibid.*, nos. 56, 74, 197.

canonical norms⁴¹. As for Archbishop John, he is not previously thought to have tackled the issue through conciliar legislation in any meaningful way, since it is mentioned only in passing in the canons of the councils held in 1072 and 1074⁴². It is possible, however, that an anonymous set of canons, preserved in a 12th-century manuscript once belonging to the abbey of Fontenay, relate to a third council convened at an unknown date by the archbishop⁴³. Like John's penitential ordinance, these canons have largely escaped the attention of scholars. Those that have examined them have argued either that they relate to an unknown English council, or have found nothing convincing to overturn such arguments, with their analysis being based largely on comparison with the records of contemporary English and Norman meetings⁴⁴. Examination of the canons in light of John's ordinance, however, reveals an interesting parallel, since not only does the unknown council legislate in relation to penance, but it seeks specifically to regulate the means by which it was administered with regards to the very same criminal sins covered by Archbishop John's ordinance⁴⁵. Such congruence is only enough for any link between these canons and

⁴¹ See Canon 18 of the council convened by Archbishop Mauger (1037-1054/5) before 1046 : « *Ut pœnitentes occasione avaritiæ gravare aut levare nemo præsumat, sed juxta modum culpæ vel possibilitatem naturæ moderetur pœnitentia. Tales namque si hujus sanctionis transgressores inveniantur, gradus sui periculo subjaceant* », G. BESSIN (ed.), *Concilia Rotomagensis...*, *op. cit.*, p. 42. The other mention comes from the council at which the Truce of God was promulgated in 1047, which threatened transgressors with 30 years penance in exile (*ibid.*, p. 39).

⁴² Canon 17 (1072), M. CHIBNALL (ed.), *Ecclesiastical History...*, *op. cit.*, t. 2, p. 290 ; Canon 10 (1074), G. BESSIN (ed.), *Concilia Rotomagensis...*, *op. cit.*, p. 65.

⁴³ Montpellier, Bibliothèque interuniversitaire, Section Médecine, MS. H 304, fol. 23v-24r ; printed in *Sacrosancta concilia ad regiam editionem exacta quae olim quarta parte prodiit auctior*, P. LABBE and G. COSSART (ed.), 16 vol., Paris, 1671-1672, t. 10, cols. 311-312.

⁴⁴ For discussion, see M. Brett, « A collection of Anglo-Norman councils », *Journal of Ecclesiastical History*, 26, 1975, p. 301-308 at p. 302 n. 1.

⁴⁵ « *VIII. Nequis presbiter, vel monachus publice peccantem criminali peccato ad penitentiam nisi jubente episcopo suscipiat. Occultę peccantem, confitentem quidem suscipiat, sed penitentiam non nisi*

John to be tentative at best. But the context in which they are preserved, coupled with the archbishop's undoubted interest in penance, is certainly enough to suggest that they perhaps relate to a previously unknown council held in Rouen sometime in the late 1060s or 1070s.

Furthermore, it was perhaps in the context of this council, and within that of a broader desire to bring some order to the practice of penance in the duchy, that John drafted his ordinance. After all, the archbishop was no stranger to trying to correct wildly divergent customs and implementing simple, standardised practices in their place. In submitting for approval his *Liber de officiis ecclesiasticis* a few years earlier to Maurilius, archbishop of Rouen (1055-1067), John had lamented the « carelessness of negligent pastors » (*incuria negligentium pastorum*) who brought disorder to the faith that he now set out to reverse⁴⁶. Whether he was successful in this remains a matter of debate⁴⁷, but as the modern editor of the *De officiis* noted, the treatise is very much the work of an author deft at presenting clearly and concisely observances that are described more convolutedly in the works of those, such as Amalarius of Metz (c. 780-c. 850), from whom he borrowed⁴⁸. John seems to have applied similar skills to the ordinance, removing any unnecessary complexity (what type of perjury, who committed a murder and why, etc.) with the aim of providing a set of penitential

eam quam episcopus determinaverit, injungat. Sic tamen ut jure confessionis servata peccantis persona nulli detestatur », Montpellier, Bibliothèque interuniversitaire, Section Médecine, MS. H 304, fol. 24r ; printed with errors in P. LABBE and G. COSSART (ed.), *Sacrosancta concilia...*, *op. cit.*, col. 312.

⁴⁶ R. DELAMARE (ed.), *Le De officiis ecclesiasticis ...*, *op. cit.*, p. 3.

⁴⁷ For discussion, see R. ALLEN, « “A proud and headstrong man” ... », *op. cit.*, p. 201-202 ; W. SMITH, *The use of Hereford : the sources of a medieval English diocesan rite*, Burlington, Ashgate, 2014, p. 66-69.

⁴⁸ « À l'œuvre d'Amalaire, touffue et confuse, il [Jean] emprunte tout au plus une phrase ou deux, il fait sienne son idées, la rend souvent sous un forme plus naturelle et plus logique », R. DELAMARE (ed.), *Le De officiis ecclesiasticis ...*, *op. cit.*, p. xxxix.

guidelines that he perhaps hoped would be easily disseminated, understood and implemented by would-be confessors. The end result is a document that might lack the liturgical finesse of similar penitential texts, but it is perfectly in keeping with a man whose driving concern seems to have been to organise, reconcile and systematise the liturgy of the Norman Church.

How successful John was in his endeavour is, of course, difficult to say. As we have already seen, the ordinance is known only by a single, late English copy, and there is neither trace nor mention of it in Normandy itself. Such circumstances are not unusual, however, since the ordinance confirmed by Ermenfrid of Sion is likewise preserved thanks only to an English manuscript tradition⁴⁹, with any copies in Normandy having perhaps fallen victim to the various archival upheavals that have plagued the region since the Middle Ages. Indeed, while English medieval archives have hardly been immune to loss, the destruction in Normandy has sometimes been acute, a fact no better illustrated than by Archbishop John's former diocese of Avranches⁵⁰. It is possible that a copy of John's ordinance was once found in the fragmentary Jumièges « Commonplace Book » manuscript noted above, which may have once formed part of a much more expansive collection similar to that found in Barlow 37⁵¹, but no other manuscript associated with Wulfstan's work is known to

⁴⁹ The Ermenfrid ordinance is found in Cambridge, Corpus Christi College, MS. 190, p. 293-294 (probably from Exeter), Oxford, Bodleian Library, MS. Junius 121, fol. 3r-4r (Worcester) and London, British Library, Cotton Tiberius C. i, fol. 111v-112r (Salisbury).

⁵⁰ For discussion, see R. Allen, « Robert Cénalis et l'histoire épiscopale d'Avranches de 1100 à 1253 », *Annales de Normandie*, 61, 2011, p. 9-24.

⁵¹ P. WORMALD, « Archbishop Wulfstan and the holiness of society », in id. (ed.), *Legal culture in the early medieval West*, London, Hambledon Press, 1999, p. 225-251 at p. 233.

contain a copy of the ordinance, despite the fact that two of them include transcripts of the Ermenfrid text⁵².

If the question of the impact of John's ordinance remains difficult to answer, so it is with the issue of how, when and why the text was transmitted to England in the first place. After all, unlike the penitential ordinance issued in the wake of the Battle of Hastings, which involved a legatine mission and concerned one of the most important events in English history, or those that were preserved elsewhere in Europe in relation to the battles of Fontenoy (843) and Soissons (15 June 923)⁵³, John's simple ordinance would seem to be of little liturgical or historical interest outside the province of Rouen, especially when compared with the rich penitential output of Anglo-Saxon England⁵⁴. But the archbishop was hardly an unknown entity. His liturgical treatise was disseminated widely throughout Europe⁵⁵, and even though its preservation in England seems to have been for purposes more academic than practical⁵⁶, it was perhaps similar motives that ensured the preservation of John's ordinance in Barlow 37.

On the other hand, the influence of the Norman cathedrals, in particular that of Rouen, on their English counterparts in the wake of the Conquest has been shown to be not

⁵² Cambridge, Corpus Christi College, MS. 190, p. 293-294 ; Oxford, Bodleian Library, MS. Junius 121, fol. 3r-4r.

⁵³ For these ordinances, see S. HAMILTON, *The practice of penance, 900-1050*, Woodbridge, Boydell & Brewer, 2001, p. 192-196.

⁵⁴ For a summary of penance and penitential handbooks in Anglo-Saxon England, see R. Meens, *Penance in medieval Europe, 600-1200*, Cambridge, Cambridge University Press, 2014, p. 88-100.

⁵⁵ R.J. Zawilla, « The *Sententia Iuonis Carnotensis episcopi de diuinis officiis*, the "Norman school", and liturgical scholarship : study and edition », *Mediaeval Studies*, 49, 1987, p. 124-151 at p. 134-137.

⁵⁶ W. SMITH, *The use of Hereford...*, *op. cit.*, p. 68.

insignificant. Remigius, bishop of Lincoln (1067-1092), a former monk of Fécamp, allegedly established canons at his newly translated cathedral « according to the rite of Rouen » (*juxta ritum Rothomagensium ecclesiae*), while the constitutions of the chapters at Salisbury and Lichfield, which had likewise seen their episcopal seats transferred under William the Conqueror, also show traces of a Rouen/John of Ivry influence⁵⁷. The other great seat to be transferred during this period was, of course, that of Norwich, which was translated from Thetford by Bishop Herbert de Losinga (c. 1095-1119) at the end of the 11th century. As we have already seen, there appears to be a potential Norwich link between Barlow 37 and the customary-ordinal of the cathedral priory. The textual parallels between the two are not on their own evidence enough to claim definitively that Barlow 37 is a Norwich manuscript, but it remains a plausible suggestion⁵⁸, especially when one remembers that the two manuscripts are also linked to the copybook of monastic customs preserved in Bodleian, MS. Wood empt. 4. As Christopher Jones has shown, this manuscript can be convincingly tied to the abbey of Fécamp, whose role in the Norman ecclesiastical and cultural invasion of England was profound⁵⁹. Norwich under Herbert de Losinga shared particularly close links with the abbey, since the bishop had previously been prior there and it was he who borrowed its customs for his own cathedral, the record of which is preserved in

⁵⁷ D. GREENWAY, « The influence of the Norman cathedrals on the secular cathedrals in England in the Anglo-Norman period, 1066-1204 », in S. LEMAGNEN and others (ed.), *Chapitres et cathédrales en Normandie*, Caen, Musée de Normandie, 1997, pp. 273-282 at p. 277.

⁵⁸ The most recent detailed study of the manuscript concludes that, despite its tentative association with Worcester, there is « no reason why it should not have originated at another scriptorium », M.D. ELLIOT, « Canon law collections in England ... », *op. cit.*, p. 36 n. 11.

⁵⁹ C. JONES, « Monastic custom ... », *op. cit.*, p. 165-167.

the aforementioned customary-ordinal⁶⁰. Fécamp's mother church was, of course, that of the cathedral of Rouen, and it is possible that Herbert, like his Fécamp associate at Lincoln⁶¹, also looked to it when establishing his new community, with John's ordinance standing as a remnant of this. Alternatively, it would not be unreasonable to suggest that Fécamp itself, whose scriptorium and library were respectively among the most active and richest of 11th-century Normandy⁶², served as the conduit through which the text of John's ordinance was first transmitted to Norwich, perhaps as part of the larger textual exchange that underpinned the importation of the abbey's customs under Bishop Herbert.

If such an interpretation of the evidence is correct, it means we should add Norwich to the list of English cathedrals, which already includes those of Lincoln, Lichfield, Salisbury and Hereford⁶³, that by either direct or indirect means wound up preserving organisational and liturgical elements originating from the cathedral of Rouen within the memory of their own institutions. That Bishop Remigius at Lincoln and Bishop Herbert at Norwich both shared links with the abbey of Fécamp, and that it was perhaps via these links that texts such as John's ordinance found their way across the Channel, is also of interest, since it serves to reinforce what is already known about the extent of this abbey's network of influence. Our knowledge of such matters has, of

⁶⁰ D. CHADD, « The medieval customary of the cathedral priory », in I. ATHERTON and others (ed.), *Norwich Cathedral : church, city, and diocese, 1096-1996*, London, Hambledon Press, 1996, p. 314-324.

⁶¹ D. GREENWAY, « The influence of the Norman cathedrals ... », *op. cit.*, p. 277.

⁶² For discussion and full bibliographical details, see S. LECOUEUX, « Sur la dispersion de la bibliothèque bénédictine de Fécamp Partie 1 : identification des principales vagues de démembrement des fonds », *Tabularia « Études »*, 7, 2007, p. 1-50.

⁶³ For conflicting views as to the extent of a Rouen influence at Hereford, see D. GREENWAY, « The influence of the Norman cathedrals ... », *op. cit.*, p. 277 ; W. SMITH, *The use of Hereford...*, *op. cit.*, p. 66-73.

course, been improved immeasurably by Véronique Gazeau, whose work is celebrated in this volume.

Naturally, much of what has been proposed in this article remains speculative, and it should be noted that a Norwich connection is only the most likely interpretation of the evidence so far unearthed. After all, it could be argued that Barlow 37 perhaps had some connection with either Reading Abbey or Durham Cathedral Priory, since both it and manuscripts associated with these houses contain the only known copies of an anonymous sermon on the symbolism behind the celebration of mass at the altar by three priests⁶⁴. A possible Durham link is further reinforced when it is observed that the series of excerpts that begins on folio 48v of Barlow 37 appears in exactly the same order in the same Durham manuscript⁶⁵, with the exception that the scribe of this codex chose to re-order one small passage and to omit the « Norwich text » on accidents involving the eucharist⁶⁶. Similarly, three of these excerpts are also found in the same order and with essentially the same text in a manuscript belonging to the

⁶⁴ The sermon is numbered **19** in Table 2. Other versions can be found in Oxford, Bodleian Library, MS. Bodl. 807, fol. 168r and Cambridge, Jesus College, MS. Q.B.6. (23), fol. 129r. For the suggestion that the Bodleian manuscript was owned by Reading Abbey, see R.W. HUNT, F.W. MADAN, and H.H.E. CRASTER, *A summary catalogue...*, *op. cit.*, t. II.1, p. 495. The copies in Barlow 37 and Jesus College, MS. Q.B.6. were unknown to Johannes Baptist Schneyer, who lists only the supposed Reading manuscript in his magisterial inventory of medieval sermons (J. B. SCHNEYER, *Repertorium der lateinischen Sermones des Mittelalters für die Zeit von 1150-1350*, 11 vol., Münster, Aschendorffsche Verlagsbuchhandlung, 1969-1990, t. IX, p. 9). I am extremely grateful to Mr Chris Barker for providing me with photographs of the Jesus College manuscript.

⁶⁵ That is, the excerpts numbered **14** to **16** and **18** to **19** in Table 2, which are also found in Cambridge, Jesus College, MS. Q.B.6. (23), fol. 128r-129r.

⁶⁶ In the Durham manuscript the passage beginning *Quando sacerdos summet corpus Domini et singulatim dicat*, which appears at the end of the sermon on the symbolism behind the breaking of the host in three parts (no. **18**, Table 2) is transcribed in Barlow 37 at the end of the sermon on the celebration of mass by three priests (no. **19**, Table 2).

Cistercian abbey of Savigny⁶⁷, which, like the abbey of Fécamp, had extensive networks in England⁶⁸.

But even if the conclusions reached in this article are in many instances only tentative, helping to raise more questions than they answer, the ordinance itself stands yet to elevate further John's place in any assessment of the 11th-century Norman episcopate. Despite a relatively short reign, cut even shorter by a debilitating stroke in July 1077, the archbishop not only sought to build upon what his predecessors had already achieved, but aimed to improve and refine what he found with an energy that was as unrelenting as his sometimes rather rancorous character⁶⁹. His list of achievements, if occasionally overshadowed by those of his more (in)famous contemporaries, is already impressive, and, if nothing else, it has been shown here, it is hoped, that it merits one more addition.

⁶⁷ That is, the excerpts numbered **14** to **16** in Table 2, which are found in BnF, MS. nouv. acq. lat. 430, fol. 103r. These excerpts were printed by Fr. Joseph-Marie Canivez in his classic edition of the Statutes of the Cistercian General Chapter under the year 1189 (*Statuta capitulorum generalium ordinis Cisterciensis ab anno 1116 ad annum 1786*, J.-M. CANIVEZ (ed.), 8 vol., Louvain, Bureaux de la Revue, 1933-1941, t. 1, p. 116, nos. 35-37), but are not included in the recent critical edition by Fr. Chrysogonus Waddell, who offers a detailed description of the Savigny manuscript (*Twelfth-century statutes from the Cistercian General Chapter : Latin text with English notes and commentary*, C. WADDELL (ed.), Brecht, Cîteaux, 2002, p. 521-522). I am extremely grateful to Professor Emilia Jamroziak for her comments on this issue.

⁶⁸ B. POULLE, « Savigny and England », in D. BATES and A. CURRY (ed.), *England and Normandy in the Middle Ages*, London, Hambledon Press, 1994, p. 159-168.

⁶⁹ For John's character, see R. ALLEN, « "A proud and headstrong man" ... », *op. cit.*, p. 190-191, 212-213.

Appendix : The penitential ordinance of John, archbishop of Rouen

A. Oxford, Bodleian Library, MS. Barlow 37, fol. 50r-v (s. xii^{ex}/xiiiⁱⁿ, Norwich?).

Ind. a. D. WHITELOCK, M. BRETT and C. BROOKE (ed.), *Councils & synods...*, *op. cit.*, p. 583. — *b.* J. BLAIR, *The church in Anglo-Saxon society...*, *op. cit.*, p. 416 n. 196.

A

Hec est constitutio Joh(an)nis Rothomage(n)sis archiepiscopi. De penitentia criminalium peccatorum.

Criminalium patrator peccatorum .VII. annos pen(iteat). In primo anno omnibus diebus absque^(a) dominicis et festis a carne et sanguine abstineat, II. et IIII. et VI. ferie, in pane et aqua jejunabit. Nudis pedibus ad ecclesiam ambulabit, cilitio debet vestiri et intonsus manere barba et capillis, equum non debet ascendere nec arma portare, nisi per orationes et elemosinas redemerit. Isti vero sunt dies quos redimere p(ossi)t. In primo anno, III. et V. ferie carnem et saginam manducando pot(erit) redimere victu unius pauperis in die ; si pauper, quinquaginta veniis clamando *Miserere mei Deus*. De cunctis aliis diebus primi anni, nullam redemptionem faciat. Primo anno finito, III. et V. ferie erit ei remissio, sed II. et IIII. et VI. ferie in pane et aqua jejunabit. Sed secunde ferie, victum piscis et casei alimento poterit redimere. He sunt redemptiones pro uno die si dives fuerit, III. pascet ; si mediocris, II ; si pauper, I ; si nihil habens, L. venias fatiat clamando totiens *Deus miserere*. Tonsuram et equum

et arma^(b) si dives fuerit, III. pauperum victu redimat ; si mediocris, II ; si pauper, I ; si nihil habuerit, L. venias, equum et arma ita redimat. Cotidie .XV. venias accipiat, clamando unaquaque vice *Deus miserere*. [fol. 50v] Calciamenta, dives VII. talaribus cum totidem caligis redimet ; mediocris, III ; pauper, I ; si nihil habens, XV venias pro unaquaque die faciat dicens ut supra. He sunt festivitates in quibus indulgentiam habebunt. A Nativitate usque oct(avam) Epiphanie et VIII. dies Pasch(alis) et VIII. dies Pentecost(es). Dies Ascensio(nis), festivit(atum) sancte Marie, et sancti Joh(ann)is Bapt(iste), et sancte Crucis, et sancte Michael(is), et apostolorum, sanctorum martyrum Dionisii et Laure(n)tii, et sancti Martini, et fest(ivitatum) Omnium Sanctorum, et festi(vitatum) principal(ium) sancte provincie in qua habitat. A Pascha vero usque oct(avam) Pent(ecostes) in pane et aqua non jejunabunt, sed ceteram abstinentiam et prescriptum jejunium observabunt. Criminalia sunt hec : homicidia, adulteria, perjuria, fornicationes, furta.

(a) a *added in interline and bow of b added later* — (b) *Second a of arma added in interline.*