

Johannes Fried

*Donation of Constantine and Constitutum Constantini*



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*Donation of Constantine*  
and *Constitutum Constantini*

The Misinterpretation of a Fiction  
and its Original Meaning.

With a contribution by Wolfram Brandes:  
“The Satraps of Constantine”

by  
Johannes Fried

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For Maria R.-Alföldi  
On the occasion of her  
80<sup>th</sup> birthday  
June 6<sup>th</sup> 2006



## Preface

The study presented here has its origins in the conference “Referenz Rom” organised by Marie-Theres Fögen of the Max Planck Institute for European Legal History, Frankfurt am Main, and held on 28<sup>th</sup>-30<sup>th</sup> September 2003. The manuscript which grew out of my initial contribution, “Rom und Erinnerung”, soon exceeded the subject matter of the conference, and expanded to become more than a mere paper or a simple article. “Romreferenz” became a study of the history of memory and the Donation of Constantine, and of the sources of that high- and late-medieval fiction with all the tangible, explosive consequences it had through the centuries. In the light of the new results of Klaus Zechiel-Eckes’ work on the origins of Pseudo-Isidore, there was clearly a need for a new study of the “Constitutum Constantini”, the document upon which the fiction of the Donation was based.

On a number of occasions I was able to present various stages of this work, and to discuss it – in Cologne, Düsseldorf and Bonn. In Frankfurt I enjoyed a continuous exchange of views with Wolfram Brandes that bore more fruits than just those points which are documented in the references; his own contribution is included here as an appendix. Heribert Müller proved himself a critical and sharp reader of an early draft, while Barbara Schlieben, Kerstin Schulmeyer-Ahl and Olaf Schneider repeatedly demonstrated their endless patience and scholarship in discussions of both individual points and the work as a whole. I am grateful to Wolfram Brandes, Alexander Demandt, Helmut Krasser, Hartmut Leppin and Peter von Möllendorff for publishing this study as a supplementary volume of “Millennium: Yearbook on the Culture and History of the First Millenium C. E.”. Inclusion in the series made publication in English desirable, and David Wigg-Wolf carried out the work of translation with great care and attention, in spite of repeated addenda and new additions by the author which delayed completion. My deep-felt thanks go to all of them. Kerstin Simon, Martin Dallmann and Roland Scheel carried out editorial work on the manuscript tenaciously and thoughtfully; Andreas Weidemann was responsible for the layout. To them too I am indebted.

Finally, it is a pleasure to thank my friend Maria R.-Alföldi, with whom I was not only able on many occasions to discuss the Roman perspective of this un-Roman fiction, but whose extensive knowledge, help in “procuring” literature otherwise all but inaccessible to a medievalist, rigorous criticism and continued pressure made this book possible in the first place.

It is an honour to dedicate it to her.





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## I. Introduction

The history of ideas and even of religion seem to decline. It would appear that they are no longer held in particularly high esteem. The fields that historians are destined to sow today are dominated by the long waves of social structure, that is social history, everyday history, history from below (whatever that may be), the cooperation and confrontation of the sexes and of civilisations, even the anthropological dimensions of historical change. It is the basic conditions of human existence that are to be examined, so that we ourselves can shape our future existence humanely.

Nevertheless in spite of this, it is the individuals in whom these structures are manifested, become incarnate and gain power, wake needs and articulate goals. It is in events, in “revolutionary” ideas, and religious sentiment that all change is gathered and compressed, and – like an earthquake – they reveal the short and long-term shifts of social or cultural tectonics, its faults and breaks, force ground-breaking renewal and demand reconstruction, while at the same time sending out their own far-reaching waves. Only through individuals, their voices and their behaviour, their actions and deeds, the articulation of their needs and fears, their ideas can such structures and dimensions be comprehended and recognised. One such revealing declaration, one that sent out its waves for centuries, is the focus of this study. It draws its name from Constantine the Great, the Roman emperor (306-337) who helped Christianity to gain acceptance and establish itself in the Roman Empire, and so in the world. At the time the document in question was both thought to be genuine and seen to be dangerous. Indeed, it is the most infamous forgery in the history of the world, yet it reveals the unforged truth about its time: the “Donation of Constantine”. Time and again this mysterious and widespread fiction is said to have transferred worldly and secular power over the whole West of the Roman Empire and, indeed, over all islands of the earth including America to the pope.

Priests and emperors sometimes used it as a weapon of aggression, sometimes as a shield of defence. No criticism of the papacy or accusation against it was possible without a reference to the “Donation”. Its direct material effects may have been limited, but it had great influence in the field of ideas and doctrine. Stood the pope above the emperor? Was the successor of St Peter and the Vicar of God the overlord of the supreme worldly sovereign? Was he himself the real emperor? Some events suggest a positive answer. During the conflict between emperor and pope in the 13<sup>th</sup> century for instance the “Donation” was a means of legitimating action. It was cast at Emperor Frederick II, as the papacy armed itself

for a final, deadly blow against his house (1236): “You see the necks of kings and princes prostrate at the feet of priests, and Christian emperors must subject their actions not only to the Roman Pontifex, but have to respect other priests just as highly.” Frederick may have remained silent at the time, but the world around him was not. It did not reject the words of the pope and the conscious expression of power, the words of the earthly representative of the Creator who guided events, and it knew the “Donation” as an old imperial call to duty against which more recent rulers could do nothing. Later the last emperor of the house of the Staufer<sup>1</sup> vainly demanded the papacy’s thanks for the Donation. He could do nothing to stop it being applied, only cast doubts on its legality at most<sup>2</sup>, and he and his house still fell. It was a deadly power that Pseudo-Constantine’s gift legitimated. But who had given it such power?

Fictions have their past history, they make sense and belong to a historical moment. According to the surviving textual evidence and indications in various sources, this fiction began its triumphal procession as an imperial rescript, the so-called “Constitutum Constantini”<sup>3</sup>, only to become in the course of time an image of the past conjured up from memory, that is the “Donation of Constantine”<sup>4</sup>. At first, from the mid-9<sup>th</sup> century, the rescript made modest progress, only for the “Donation” to storm irresistibly ahead, intoxicated by success, from the mid-11<sup>th</sup> century. Both elements of the story, the document itself and the common knowledge of it, can be clearly separated, as will be shown (ch. II-III). Although not at the same time, both of them were drawn into the whirlpool of the centuries-long, often bloody struggle for spiritual and secular power, the struggles for the papacy and kingship, *sacerdotium* and *regnum*, for Reformation and Counter-Reformation. Their history reflects events central to all of the Middle Ages and the entire history of Europe.

1 The imperial family is correctly called “Staufer”, not “Hohenstaufen”. The latter is the name of a mountain, meanwhile the family is named by her castle “*der stouf*”, which stood at the top of the mount Hohenstaufen; cf. Hansmartin Schwarzmaier, *Die Heimat der Staufer. Bilder und Dokumente aus einhundert Jahren staufischer Geschichte in Südwestdeutschland*, 2<sup>nd</sup> edition, Sigmaringen 1977. The wrong name is a misinterpretation of historians in the 19<sup>th</sup> century.

2 The letter from Pope Gregory IX quoted: *Ex Gregorii IX registro epistola 703*, ed. by C. Rodenberg. In: *MGH Epp. saec. XIII 1*, Berlin 1888, pp. 599-605. On the context, cf. Ernst H. Kantorowicz, *Kaiser Friedrich der Zweite*, 2 volumes, Berlin 1927-1931, here 1, pp. 393-4 (p. 393 for the quote from the papal letter) and 2, p. 174; I here quote from the original edition of this often reprinted work, not from the most recent 4<sup>th</sup> edition, Stuttgart 1994; the emperor's demand for gratitude (1240): *Historia diplomatica Frederici secundi*, ed. by Jean-Louis Alphonse Huillard-Bréholles, 6 volumes, Paris 1852-1861, here 5, pp. 309-12; also Kantorowicz I, c. 1, p. 459; 2, p. 200; Wolfgang Stürner, *Friedrich II.*, 2 volumes, Darmstadt 1992-2000, here 2, p. 476; cf. also below p. 22. After Frederick's death, doubts as to its legitimacy were also expressed by his son Manfred in a proclamation to the Romans: *Constitutio 424. Epistola ad Romanos*, ed. by Ludwig Weiland. In: *MGH Const. 2*, Hanover 1896, pp., 559-65.

3 The definitive edition: *Das Constitutum Constantini (Konstantinische Schenkung)*. Text, ed. by Horst Fuhrmann (*MGH Fontes iuris 10*), Hanover 1968. The extensive introduction is quoted as Fuhrmann, Introduction, the text according to his numbering of the lines.

4 On this, see below pp. 5 and 11-49.

Scholars were involved. Fired on, first in the 15<sup>th</sup> century by the heated discussions at the time of the Councils, above all by John Wycliffe and Johannes Hus, and then in the 16<sup>th</sup> century by confessional disagreements, hefty discussions about the authenticity of the “Constitutum Constantini” dominated the arguments of theologians and canonists, jurists, publicists, authors of histories and critical historians, well into the 19<sup>th</sup> century. Although in the Middle Ages doubts had been cast on whether the document discussed so often at synods and Councils was genuine, and it had even been recognised as a forgery, in particular by Cardinal Nicholas of Kues, the great humanist Lorenzo Valla, and the “Anti-Lollard” Reginald Peacock, the Reformation, which used the forged document as propaganda against the Roman pontiff, saw the papal side reassert its authority. This was proclaimed by a long series of canonistic authors; significantly, the commentary on Gratian by John of Torquemada, the learned canonist and formerly ‘anti-conciliarist’ cardinal, with its thoroughly unoriginal defence of the “Donation”, indeed of papal rule generally, was now printed (1553). It was promoted in an elaborate sequence of frescoes commissioned (from Giulio Romano and Gianfrancesco Penni) by Clement VII (1523-34) in the “Sala di Costantino” of the Vatican Palace, adapting those that Raffael had painted for Leo X (1513-1521), and at the end of the century in the Lateran Basilica by Clement VIII in 1597. Finally, at the beginning of the next century, even the great historian Cardinal Caesar Baronius insisted that the “Donation” was a historical fact, notwithstanding that the “Constitutum Constantini” was to be rejected as apocryphal<sup>5</sup>. The effects were to be long-lasting. Even in the 19<sup>th</sup> century the discussion still raged, influenced by the *Risorgimento* and Bismarck’s *Kulturkampf*<sup>6</sup>. Only then did the fire finally fade, and nobody seriously defends the pseudo-Constantinian fabrication any more. Only the forgery has remained.

Instead discussion now focused on the origins of the “Constitutum Constantini”, its date and context. Clues were recognised in the resurrection of the cult of St Sylvester at Rome under Pope Stephen II (752-757) and his brother and successor Paul (757-767); but above all in the text of the counterfeit document, which appeared to contain phrases which could apparently be localised in Rome

5 Gerhard Laehr, *Die Konstantinische Schenkung in der abendländischen Literatur bis zur Mitte des 14. Jahrhunderts* (HS 166), Berlin 1926; idem (†), *Die Konstantinische Schenkung in der abendländischen Literatur des ausgehenden Mittelalters*. In: QFIAB 23 (1931-1932), pp. 120-81, here pp. 140-8 on Wycliffe, Hus and Pecock, pp. 148-51 on the defensive reaction of the Councils of Constance and Basle, pp. 174-5 on Torquemada, pp. 178-9 on Clemens VIII, p. 179 on Baronius; on the Sala di Costantino: Rolf Quednau, *Die Sala di Costantino im Vatikanischen Palast. Zur Dekoration der beiden Medici-Päpste Leo X. und Clemens VII. (Studien zur Kunstgeschichte 13)*, Hildesheim etc. 1979, on pp. 451-8 a list of defensive tracts of the 16<sup>th</sup>/17<sup>th</sup> centuries. – On early Roman imagery and iconography: Franz Alto Bauer, *Das Bild der Stadt Rom im Frühmittelalter. Papststiftungen im Spiegel des Liber Pontificalis von Gregor dem Dritten zu Leo dem Dritten (Pallia 14)*, Wiesbaden 2005, pp. 117-9.

6 One of the main opponents of its authenticity was: Ignaz von Döllinger, *Die Papstfabeln des Mittelalters*, Munich 1863 (New edition by Georg Landmann, Kettwig 1991).

and dated in the pontificate of Paul I. The separat manuscript tradition of the document is sparse, but can be traced back to the late 9<sup>th</sup> century, while the oldest manuscript of the forgery is part of the notorious pseudo-Isidorian decretals, which are not what they seem to be either.

The wording of the false constitution revealed linguistic similarities with genuine products of the papal chancellery of the 8<sup>th</sup> century, and in particular with the letters of Paul I to the Frankish King Pepin and his sons. This pointed the finger at the early phase of the establishment of the “States of the Church”<sup>7</sup>, which made the document and its date particularly explosive; in other words at the beginnings of papal secular authority, which in the Middle Ages and later unleashed conflict upon conflict, a chapter in the history of the world which still stirs up emotions today. Was greed for power the motive behind the forgery? This was an interpretation that matched the demise of the Staufer, the Confessional Wars, and a supposed thirst for world power. Yet, can the language of an anonymous forger provide definite answers? This we shall see.

Pseudo-Isidore’s mighty forgery exists in a long and a short redaction, and was certainly already known in the Frankish Empire just before the mid-9<sup>th</sup> century. It in turn contained the “Constitutum Constantini” either in full length, or in an abridged version that did not contain the passages that dealt with the actual Donations<sup>8</sup>. The widespread dissemination of Pseudo-Isidore then ensured that from the mid-11<sup>th</sup> century the “Constitutum Constantini” and the “Donation” were to have a significant effect on the course of history.

7 Paul Scheffer-Boichorst, *Neuere Forschungen über die Konstantinische Schenkung*. In: *MIÖG* 10 (1889), pp. 302-25 and 11 (1890), pp. 128-46, reprinted in: idem, *Gesammelte Schriften* 1, Berlin 1903, pp. 1-63 (from which quotes are taken); the results were widely accepted, see for example the enthusiastic comments in: Erich Caspar, *Pippin und die römische Kirche. Kritische Untersuchungen zum fränkisch-päpstlichen Bunde im VIII. Jahrhundert*, Berlin 1914, pp. 185-9; idem, *Das Papsttum unter fränkischer Herrschaft*. In: *ZKG* 54 (1935), pp. 132-266; published separately Darmstadt 1956 (from which the quotes here are taken), pp. 19-34; Wilhelm Levison, *Konstantinische Schenkung und Silvester-Legende*. In: *Miscellanea Francesco Ehrle* 2 (StT 83), Rome 1924, pp. 159-247, reprinted in: idem, *Aus rheinischer und fränkischer Frühzeit. Ausgewählte Aufsätze*, Düsseldorf 1948, pp. 390-465; Girolamo Arnaldi, *Le origini dello stato della chiesa*, Turin 1987, pp. 141-7. – For criticism, cf. Horst Fuhrmann, *Das frühmittelalterliche Papsttum und die Konstantinische Schenkung*. In: *SSAM* 20 (1972) [published 1973], pp. 257-329, here pp. 273-81. Cf. also below, p. 36 with note 104 and p. 53 with note 164. – The latest and most absurd mention of the “Donation of Constantine” to date in Teja Fiedler, *Die Päpste*. Teil 1, in: *Stern* 7/2005 from the 7<sup>th</sup> April 2005, p. 64.

8 On discussions on authenticity and tradition, cf. Horst Fuhrmann, *Konstantinische Schenkung und abendländisches Kaisertum*. Ein Beitrag zur Überlieferungsgeschichte des *Constitutum Constantini*. In: *DA* 22 (1966), pp. 63-178; idem, *Introduction* (as above, note 3); Schafer Williams, *The oldest Text of the Constitutum Constantini*. In: *Tr* 20 (1964), pp. 448-61 (this is the *Constitutum* of the oldest known manuscript of the long version of Pseudo-Isidore, including the variants of a further manuscript from the mid-9<sup>th</sup> century, and the two oldest manuscripts of the abridged version).

It was only Pseudo-Isidore who brought the “Donation of Constantine” to a wider public, as the first expert on the subject, Horst Fuhrmann, put it<sup>9</sup>. But when had Pseudo-Isidore taken up his pen? Where did this happen? Who was the man who hid himself behind the nom de plume Isidore Mercator? Why did he include the “Constitutum Constantini” in his own work? How did he get hold of it? Finally, who was the latter’s author? The questions are never-ending, and have been the subject of a long and heated debate<sup>10</sup>.

Yet any interpretation of the “Constitutum Constantini” is directly affected by the answers. There is rarely any agreement about the forger’s intentions, about how his readers reacted to the text, even today about what scholars believe they can see. At the same time, the most recent author on the subject stands “on the shoulders of giants” who have studied such questions before him, and is grateful for the view that he has from such lofty heights, even if he then travels off in a different direction to that the giants had taken. For it seems to me that insufficient attention has been paid to the exact wording of the text. It provides hints of a meaning that is very different to the “Donation of Constantine” as constituted by the Middle Ages since the late 11<sup>th</sup> and the 12<sup>th</sup> centuries, and scholars since then. Hopefully it will bring us closer to the author and his intention.

Thus the study presented here requires us to make a clear distinction between the “Constitutum” and the “Donation”. Whoever wishes to investigate the latter must take up the story in the 11<sup>th</sup> and 12<sup>th</sup> centuries and has to immerse himself in the bloody struggle that led to the decline of the Staufer. But whoever wants to learn about the former must, in my opinion, turn his attention to harmless matters involving the history of terms and concepts in the Early Middle Ages, to the 8<sup>th</sup> and 9<sup>th</sup> centuries, must investigate the past history of the papal palace, the Lateran and look at the history of the Patriarchates in the High Middle Ages; for these are matters that play an important part in the “Constitutum”. The results should be worthwhile. Whether or not struggles, even bloody wars contributed to its production and intentions will then be revealed.

9 Fuhrmann, *Das frühmittelalterliche Papsttum und die Konstantinische Schenkung* (as above, note 7), 259: „Erst Pseudoisidor brachte die Konstantinische Schenkung unter die Leute“.

10 For a summary of opinions regarding the time and place of origin, cf. Wolfgang Gericke, *Wann entstand die Konstantinische Schenkung?*. In: ZRG Kan. Abt. 43 (1957), pp. 1-88; Domenico Maffei, *La donazione di Costantino nei giuristi medievali*, Milano 1964, pp. 3-10; on the state of discussion about Pseudo-Isidore, cf. the contributions in: *Fortschritt durch Fälschungen? Ursprung, Gestalt und Wirkungen der pseudoisidorischen Fälschungen. Beiträge zum gleichnamigen Symposium an der Universität Tübingen vom 27. und 28. Juli 2001*, ed. by Wilfried Hartmann and Gerhard Schmitz (MGH Studien und Texte 31), Hanover 2002, pp. 1-28; further, cf. below p. 70 et seqq. The most recent summary of the history of the origin and the impact of the “Constitutum Constantini” is offered, albeit not without mistakes (e.g. on pp. 54-60 the two versions of the “*Actus b. Silvestri*” are not separated; on p. 66 Paris BN lat. 2777 is transposed to the beginning, as opposed to the end, of the 9<sup>th</sup> century; pp. 66-7 ignores the most recent research on Pseudo-Isidore) by Giovanni Maria Vian, *La donazione di Costantino* (L’identità italiana 35), Bologna 2004.





## II. The “Donation of Constantine”

Kunc Constantîn der gap sô vil,  
Als ich ez iu bescheiden will,  
dem stuol ze Rôme: sper kriuz unde  
krône.  
Zehant der engel lûte schrê  
‘owê, owê zem dritten wê!’  
Ê stuont diu kristenheit mit zûhten  
schône:  
Der ist nû ein gift gevallen,  
ir honec ist worden zeiner gallen.  
Daz wirt der werlt her nâch vil leit.

King Constantine he gave so much  
As I wish to relate to you,  
To the See of Rome: spear, cross and  
crown.  
Outright the angel loudly cried  
‘Woe, woe, thrice woe!’  
Once Christendom stood in fair  
decorum:  
Into which a poisoned gift has fallen,  
Its honey has turned to gall.  
To the world this will yet cause much  
harm.

(25.11)<sup>11</sup>

It was with great torment that Walther von der Vogelweide, a poet with close connections to the Kings of the Romans, recalled the Donation of Constantine. The minstrel’s angel was horrified by the emperor’s generous gift to pope Sylvester; it had poisoned the world and brought endless suffering upon Christendom. Many of Walther’s contemporaries shared his opinion, as did others in years to come. Perhaps the minstrel even realised that worse was to follow, for he sang these lines during the conflict between Philip of Swabia (1198-1208) and Otto IV (1198-1218) for the throne of the Holy Roman Empire, as the Empire was plagued by the ravages of civil war, plundering and endless bribery. While the two protagonists were busy heaping opulent gifts on the electors, they repeatedly gave Pope Innocent III the opportunity to intervene in the conflict over the heads of the electors, and even to settle the conflict and to present himself as lord over kings and nations. To Walther, Constantine’s donation seemed to elevate the pope above all earthly rulers, and to turn the proper order of the world upside down: *“die pfaffen wellent leien reht verkêren”* (“the clerics wish to twist

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11 The Old German word “gift” has a double meaning that cannot properly be translated: on the one hand it has the same meaning as the English word “gift”, but it also means “poison”. Perhaps the expression “poisoned chalice” comes closest to expressing the deliberate ambiguity of Walter von der Vogelweide’s words.

laic rights”). Nothing could be done to change the situation, but nevertheless it was a tragedy, and the blame was squarely laid at Constantine’s feet.

But what did the poet really know about Constantine’s deed (which was only to be revealed as a fiction by the humanists of the Renaissance and modern scholars)? The angel’s voice was to resound from the heavens on a number of later occasions – a sign that Walther was propagating a current tradition that had no direct knowledge of the “*Constitutum Constantini*”, the original document that supposedly recorded the donation<sup>12</sup>. Indeed shortly before Walther the Welsh chronicler Gerald de Barr (*Giraldus Cambrensis*) had already heard the angel lament Constantine’s donation, although he had never studied the document in detail himself. When he pronounced his judgement on the succession, even Pope Innocent acted solely on common knowledge of the “Donation”, whose depiction had been set up in the porticus of the Lateran Basilica either by Clement III (1187-1191) or Celestine II (1191-1198)<sup>13</sup> (cf. plate 3). He made no reference to the “*Constitutum Constantini*” itself or its text. Indeed he rarely recalled it, and when he did then he did so it was in Rome, behind closed doors and only in vague terms, never explicitly. Yet, Innocent never doubted the core of the “Donation”: The entire Western Empire had been handed over to St Sylvester, while Constantine retained only the East for himself<sup>14</sup>.

Walther was just a travelling singer, with no Latin education, and was very probably illiterate<sup>15</sup>. His knowledge was based on oral tradition; fables and accounts of the kind that were nourished by sermons, rumour, colportage and

12 For the first time, and only shortly before Walther, in the “*Gemma ecclesiastica*” and in other writings by *Giraldus Cambrensis* c. 1197, cf. Laehr, *Die Konstantinische Schenkung in der abendländischen Literatur bis zur Mitte des 14. Jahrhunderts* (as above, note 5), p. 72, cf. pp. 172-3.

13 Ingo Herklotz, *Der mittelalterliche Fassadenportikus der Lateranbasilika und seine Mosaiken. Kunst und Propaganda am Ende des 12. Jahrhunderts*. In: *RJ* 25 (1989), pp. 25-95, here p. 50 (plate 18.) and pp. 63-5, on the date esp. p. 37; cf. below p. 23 seq. The portico was demolished in 1731.

14 “*Omne regnum Occidentis ei tradidit ...regnum sibi retinens Orientis*”: Migne PL 217, col. 481. For a summary of this discussion, see Kurt Zeillinger, *Konstantinische Schenkung, Kaisertum und Papsttum in salisch-staufischer Zeit (1053-1265)*. Studien zur politischen Wirkungsgeschichte des *Constitutum Constantini* im Hochmittelalter, unprinted habilitational thesis, Vienna 1984, pp. 104-5.

15 It is uncertain whether Walther enjoyed any clerical instruction; the assumption that he did is based solely on an analysis of rhetorical elements in his compositions. However, that is not to say that it was Walther who introduced such elements into poetry written in German; pure rumour was indeed part of the sources of the oral tradition; for a summary see Fritz Peter Knapp, ‘Waltherus de Vogelweide vagus’. *Der zwischenständische Sänger und die lateinische Literatur in ,Österreich‘*. In: *Walther von der Vogelweide. Beiträge zu Leben und Werk*, ed. by Hans-Dieter Mück (Kulturwissenschaftliche Bibliothek 1), Stuttgart 1989, pp. 45-60; Franz Josef Worstbrock, *Politische Sangsprüche Walthers im Umfeld lateinischer Dichtung seiner Zeit*. In: *Walther von der Vogelweide. Hamburger Kolloquium 1988 zum 65. Geburtstag von Karl-Heinz Borck*, ed. by Jan-Dirk Müller and Franz Josef Worstbrock, Stuttgart 1989, pp. 61-80.

propaganda, and circulated at the meetings of goliards. In other words, it was hearsay<sup>16</sup>. Things got confused, and the picture of the past and the order of the world that was presented declared Rome to be the head of the world, and not just of the Church. Many motifs merged on the canvas; the tale of Constantine being cured of leprosy and expressing his thanks by converting to the religion of his saviour, the Princes of the Apostles and the successor of St Peter; of his being baptised by Sylvester, granting Christianity legal protection, founding churches, making generous gifts to the pope and the Roman church; and finally granting the latter imperial power over the Western Empire, before retiring to Byzantium where his successors still sat on the throne. Neither the poet nor his contemporaries realised that they had been fooled by a fake implanted in the cultural memory of Latin Christianity<sup>17</sup>. It had crept in through the side door of forgetting, misunderstanding and re-interpretation.

Yet Church and Kingdom can no more be seen or touched than Heaven and Hell. It requires revelation, myths and rituals to give form and substance to their existence. They live from belief. But they then speak in signs and symbols, and their actions are sanctioned by limitless power and irresistible authority. Their embassies now proclaim salvation or damnation; they demand loyalty and subservience, obedience and fear. Belief shapes the world, and the wise minstrel knew it.

So Walther thought that what he had heard was true, and an ill-fated right. In a manner it was; for as none other than Innocent III proclaimed in his sermon on St Sylvesters Day (december 31)<sup>18</sup>, the Bishop of Rome wears the crown as a sign of his imperial office (*imperium*), and the mitra as the sign of his pontifical office (*pontificium*). A picture formed of memories explained the current reality: the power of the Roman Byzantine Empire was restricted to the East and indeed collapsed, while the Roman church had actual power in the West, even over secular princes. It based its claim on Rome, which the Prince of the Apostles had made his seat, and from where his successors ruled Christendom. But the picture was based on distorted recollections; contemporary memory shaped the remembered past to suit its own present, and abstracted it from all legal and constitutional matters, from all history, even from the document itself, the "Constitutum Constantini".

Thus there was no tradition that Constantine had presented the Church with a spear<sup>19</sup>. On the other hand, "spear", "cross" and "crown", that is the holy lance,

16 Inns as locations for discussion and exchange of news: Ottonis Episcopi Frisingensis Chronica sive Historia de duabus civitatibus, ed. by Adolf Hofmeister (MGH SS rer. Germ. [45]), Hanover <sup>2</sup>1912 [first published 1867], p. 274. – The illiterate public's awareness of the "Donation of Constantine": below, note 71 (on Wezel).

17 On the implanting of cultural memory cf. Johannes Fried, *Der Schleier der Erinnerung. Grundzüge einer historischen Memorik*, Munich 2004, pp. 153-72.

18 As above, note 14.

19 The *contea* in line 225 of the "Constitutum" are not regal insignia.

and the imperial cross (the so-called "Reichskreuz", a reliquary with a huge splinter of the True Cross) and crown, were the defining insignia of the German Kings. By naming them Walther evoked the full glory of the "Holy Roman Empire", which had now been transferred to the pope. Its order had been stood on its head, and it had been stirred up and shattered by the "will of priests". Content and truth, the rationale behind the donation, were summed up in symbols. In the process the oral memory was subjected to interference, it became anachronistic, telescoped events, and updated them. It did so by referring to such symbols, visible signs and rituals in order to impress a picture of what was to be remembered on the contemporary audience. It sufficed itself with vague approximations of what had once actually happened, and avoided learned studies.

But should Walther not have known better? Should his audience not have been prepared to reject his political slogans on the grounds that they were quite obviously mistaken, and refused to pay him? The fact that they did not do so confirms the tradition that rated his lament of Constantine's gift just as highly as the rest of his songs. His audience accepted the distortion of memory that was part of the oral tradition simply because they didn't realise that there was any distortion. They had no way of countering it, in spite of the fact that the literary sources contained the knowledge required to correct it, and scholars could actually have done so. The culture of oral memory and the literary tradition were in fact not two separate lines, but were intertwined, influencing each other and reshaping themselves, before emerging in distorted forms as a new element in the cultural memory of the West. The exegetic advantages of knowledge based on writing were drawn from the same oral culture of discursive memory as that used by the poet, and this culture had a commanding grasp of the content of recollection. It produced new meanings and facts.

The observations that follow deal here with this re-formation of cultural memory through the practice of recollection (III). They then inspect the original wording, its meaning and the origin of the "Constitutum Constantini" (IV), before discussing its date and context (V-VI).

### III. The origin and fate of the “Donation of Constantine” in the High Middle Ages

One medieval scholar who discussed the “Constantinian Donation” was the historian Otto of Freising, an uncle of the Emperor Frederick Barbarossa. He had studied the most modern techniques of dialectical exegesis in Paris, before joining the Cistercian order and finally becoming Bishop of Freising<sup>20</sup>. He knew of the literary tradition of the story of Constantine’s baptism as propagated by the Romans (“*iuxta Romanorum tradicionem*”), the origins of which were indeed an ancient biography (“*Vita*” or “*Actus b. Silvestri*”). He was also aware of the “*Constitutum Constantini*”, which somehow owed its existence to the *Vita*, and so of the deed that documented the emperor’s donation to the Roman church – a deed that repeatedly described itself as “*constitutio*” (l. 11), “*institutionis pagina*” (l. 20), “*imperiale constitutum*” (l. 281) or “*decreti pagina*” (l. 293), and so explicitly claimed to be an imperial decree. However Otto did not quote the deed verbatim, so it is unclear to what extent he had taken in its actual wording. But in his “*Chronicle*”, which he wrote about 1143-46, he interpreted both baptism and donation as signs of the elevation of the church (“*exaltatio civitatis Dei*”), and to him that was what mattered<sup>21</sup>.

Critical scholar that he was, the Bishop of Freising compared this information with his other historical sources, without exception written documents, and noted glaring contradictions. The most obvious was Constantine’s baptism. The Roman legend of St Sylvester had the emperor healed of leprosy through the intervention of the pope, by whom he was then baptised and whom he thanked by making generous donations to the Roman church<sup>22</sup>. On the other hand from the late

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20 For recent publications on Otto cf. Roman Deutinger, *Rahewin von Freising. Ein Gelehrter des 12. Jahrhunderts* (MGH Schriften 47), Hanover 1999, pp. 2-3.

21 *Chronicle* IV, 4 (*Capitulatio*) ed. by Hofmeister, p. 22; *Chronicle* IV, 4 p. 189. – On earlier doubts about the “*Vita*” (not the “*Donation of Constantine*”) cf. Thomas Grünewald, ‘Constantinus Novus’: Zum Constantin-Bild des Mittelalters. In: *Costantino il Grande dall’ Antichità all’Umanesimo I. Colloquio sul Cristianesimo nel Mondo Antico*, Macerata 18-20 dicembre 1990, ed. by Giorgio Bonamente and Franca Fusco, Macerata 1992, pp. 461-85.

22 The *Vita* is most easily accessible in the uncritical and erroneous edition of Boninus Mombritius, *Sanctuarium seu Vitae Sanctorum* 2, Paris 1910, pp. 508-31; on criticism of this cf. esp. Wilhelm Levison, *Konstantinische Schenkung und Silvester-Legende*, in: *Miscellanea Francesco Ehrle* 2, Rome 1924, pp. 159-247, also in: *Aus rheinischer und fränkischer Frühzeit. Ausgewählte Aufsätze*, Düsseldorf 1948, pp. 390-465 (quoted from there). Cf. below, notes 24 and 236. Tessa Canella, *Gli “Actus Silvestri”. Genesi di una leggenda su Costantino imperatore* (Uomini e mondi medievali 7), Spoleto 2006.

antique "*Tripertita hystoria*", which he trusted deeply, Otto knew that Constantine "was baptised late in his life in Nicomedia" (Chr. IV,1), and he arrived at the following conclusion: "Thus what is written about (Constantine's) leprosy and conversion in the life of Saint Sylvester would seem to be apocryphal" (Chr. IV,1). In the 13<sup>th</sup> century an anonymous reader was not pleased with such distrust of holy authority and hastily scribbled "The master is mistaken here" in the margin of the codex, "for the Roman curia assumes the opposite, and is to be preferred"<sup>23</sup>. This was the work of 'authoritative memory'. The Church recollected the truth, and its infallibility even misled scholars. No critical historian could succeed against it in the long term.

In spite of his scepticism of the "*Vita Silvestri*", Otto also accepted the Constantinian Donation – although he again did qualify this: "as is required of the story circulated by the Romans (*ut Romanorum habet hystoria*)" (Chr. IV,3; cf. also VII, 27). How could the Bishop of Freising have realised that the *Vita* was no more than a historical novel, probably written in the beginning of the second half of the 5<sup>th</sup>, not in the 4<sup>th</sup> century<sup>24</sup>, and that in spite of the fact that in the intervening years the "Constitutum Constantini" had taken its place in numerous collections of ecclesiastic law, it was no more than pure invention drawn from Pseudo-Isidore's forgeries<sup>25</sup>? Nevertheless, doubts plagued the critical historian in

23 Ed. by Hofmeister, p. 185.

24 On the *Vita* cf. Raymond-J. Loenertz, O. P., *Actus Silvestri. Genèse d'une légende*. In: RHE 70 (1975), pp. 426-39.; Wilhelm Pohlkamp, *Tradition und Topographie: Papst Silvester I. (314-335) und der Drache vom Forum Romanum*. In: RQ 78 (1983), pp. 1-100; idem, *Kaiser Konstantin, der heidnische und der christliche Kult in den Actus Silvestri*. In: FMSt 18 (1984), pp. 357-400; idem, *Privilegium ecclesiae Romanae pontifici contulit. Zur Vorgeschichte der Konstantinischen Schenkung*. In: MGH Fälschungen im Mittelalter 2: Internationaler Kongreß der MGH, München, 16.-19. September 1986. Gefälschte Rechtstexte. Der bestrafte Fälscher (MGH Schriften 33,2), Hanover 1988, pp. 425-90; idem, *Textfassungen, literarische Formen und geschichtliche Funktionen der römischen Silvester-Akten*. In: Francia 19/1 (1992), pp. 115-96; on the date of the earliest aspects of the tradition of the "*Actus*" (ca. 400) cf. Vincenzo Aiello, *Costantino, la lebra e il battesimo di Silvestro*. In: *Costantino il Grande dall'Antichità all'Umanesimo I. Colloquio sul Cristianesimo nel Mondo Antico*, Macerata 18-20 dicembre 1990, ed. by Giorgio Bonamente, Franca Fusco, Macerata 1992, pp. 17-58. Also Pohlkamp, *Textfassungen*, p. 149 with note 160 dating: "no later than the end of the 4<sup>th</sup> century". For a different view: Garth Fowden, *The last days of Constantine: Oppositional versions and their influence*. In: JRS 84 (1994), pp. 146-70, here pp. 154-5 and passim, who assumes a date the mid-5<sup>th</sup> century. His thesis that the Latin legend of Sylvester and Constantine (*Actus b. Silvestri*) has Greek roots is not under examination here. Canella, *Gli "Actus Silvestri"* (as above, note 22) dates the A-version for good reasons to the second half of the fifth century and the B-version not much later, cf. her summary p. 267; see below, note 236.

25 *Decretales Pseudo-Isidorianae et Capitula Angilramni*, ed. by Paul Hinschius, Leipzig 1863. On this topic, see Horst Fuhrmann, *Einfluß und Verbreitung der pseudoisidorischen Fälschungen von ihrem Auftauchen bis in die neuere Zeit* (MGH Schriften 24/1-3), 3 volumes, Stuttgart 1972-1974; idem, *Stand, Aufgaben und Perspektiven der Pseudoisidorforschung*. In: *Fortschritt durch Fälschung? Ursprung, Gestalt und Wirkungen der pseudoisidorischen Fälschungen. Beiträge zum gleichnamigen Symposium an der Universität Tübingen vom 27. und 28. Juli 2001*, ed. by Wilfried Hartmann and Gerhard Schmitz (MGH Studien und Texte 31), Hanover