

M I S C E L L A N Y

A NEW NINTH-CENTURY WITNESS OF A CAROLINGIAN COLD-WATER ORDEAL FROM SEPTIMANIA

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This note presents a previously unedited ninth-century witness of a Carolingian rite of the cold-water ordeal from Septimania and provides an examination of its language and provenance.

This article identifies and examines a hitherto unknown and unedited early medieval witness of a Carolingian rite of the cold-water ordeal from Septimania discovered by the author in April 2022 while conducting research related to Carolingian textual culture in the southwestern parts of Charlemagne's empire.¹ The rite appears on the opening folio (fol. 1r/v) of Rome, Biblioteca Vallicelliana, Ms. C. 3, a Septimanian copy of Claudius of Turin's *Commentary on Matthew* (fols. 2r–202v) dated by modern scholars to the first or second quarter of the ninth century.² No one has discussed the opening leaf and its content, written in a ninth-century hand, for almost a century.³

The new manuscript witness discussed in this article was identified and analyzed in the framework of the FWF project “Carolingian Culture in Septimania and Catalonia” (Vienna and Barcelona, P 33080-G). The author would like to thank the staff of the Biblioteca Vallicelliana in Rome for the opportunity to consult the original manuscript.

¹ This text is not found in the database “Formulae, Litterae, Chartae” hosted by the Akademie der Wissenschaften in Hamburg and directed by Prof. Dr. Philippe Depreux (University of Hamburg).

² See, for example, M. M. Gorman, “The Commentary on Genesis of Claudius of Turin and Biblical Studies under Louis the Pious,” *Speculum* 72 (1997): 279–329, at 322 (“saec. ix¹, southern France ... later at Lyons”); P. Boulhol, *Claude de Turin, un évêque iconoclaste dans l'Occident carolingien: Étude suivie de l'édition du 'Commentaire sur Josué'* (Paris, 2002), 21 n. 42 (“1^{re} moitié [sc. “du ix^e siècle”], sud de la France”) and 336–37 (“1^{re} moitié, ix^e s., sud de la France; plus tard à Lyon”); B. Valtorta, *Clavis Scriptorum Latinorum Medii Aevi: Auctores Italiae (700–1000)* (Florence, 2006), 78; and B. Bischoff, *Katalog der festländischen Handschriften des neunten Jahrhunderts (mit Ausnahme der wisigotischen)*, 4 vols. (Wiesbaden, 1998–2017), 3:230 (no. 5354): “(Südliches) Frankreich (nicht Lyon), ix. Jh., 1./2. Viertel.” Rome, Biblioteca Vallicelliana, Ms. C. 3 has been digitized on the manuscript platform “ARCA.”

³ E. Comba, *Claudio di Torino, ossia la protesta di un vescovo: Cenno storico* (Florence, 1895), 154; G. Boffito, “Il codice Vallicelliano C III: Contributo allo studio delle dottrine religiose di Claudio, vescovo di Torino,” *Atti della R. Accademia delle Scienze di Torino*:

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On the recto side of the leaf of modern paper preceding it (fol. 11r), an anonymous cataloguer has identified the text as: “RITUS / Probandi homines de furto accusatos / per aquę immersionem AB EUGENIO II PAPA / ut dicitur / institutus, sed postmodum ab aliis Roman. / Pontificibus abolitus.” While the text in question is indeed an unnoticed witness to the cold-water ordeal, it differs from the one falsely attributed to Pope Eugenius II (824–827).⁴ Rather, it is related to the version first published by Georg Waitz in 1876 and again by Karl Zeumer in 1886 based on Vatican City, Biblioteca Apostolica Vaticana, Reg. lat. 612, fols. 39r–41r, a late ninth-century manuscript from the region of Tours.⁵ The folio of the rite also has an entry from the early seventeenth century on its upper left corner (fol. 1r), from which the more recent history of the codex emerges and which explains how, from where, and by whom the manuscript was brought to Rome: “Ex Bibliotheca lugdunensi ab hereticis combusta, exemptus codex venditus ab heretico, emptus a P. Joanne a Bosco Caelestino.”⁶ The manuscript was thus in Lyons in the sixteenth century, where it was purchased sometime

Classe di scienze morali, storiche e filologiche 33 (1897–98): 250–85, at 250–51 and 256; and S. Tafel, “The Lyons Scriptorium,” in *Palaeographia Latina, Part IV*, ed. W. M. Lindsay (Oxford, 1925), 40–70, at 54.

⁴ *Regesta pontificum Romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII* 1–2, ed. P. Jaffé et al. (Leipzig, 1885–1886), 322 (no. 2565), where it is dated “824–827”; and idem, *Regesta pontificum Romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII* 2 (Göttingen, 2017), 318 (no. 5114), where it is dated “824–827.” Neither of these repertories mentions the editions by E. de Rozière, *Recueil général des formules usitées dans l’Empire des Francs du V^e au X^e siècle*, 3 vols. (Paris, 1859–1871), 2:809–10 (no. 592); and K. Zeumer, in MGH, *Formulae Merovingici et Karolini Aevi* (Hanover, 1886), 618–19 (no. 17). See also R. von Nostitz-Rieneck, “Hat Papst Eugen II die Kaltwasserprobe bestätigt? (Jaffé Ewald 2565),” *Zeitschrift für katholische Theologie* 20 (1896): 710–16; A. Franz, *Die kirchlichen Benediktionen im Mittelalter*, 2 vols. (Freiburg im Breisgau, 1909), 2:321; M.-A. Michel, “Ordalies,” in *Dictionnaire de théologie catholique* 11: *Naasséniens–Ordalies* (Paris, 1931), 1139–52, at 1146; H. Nottarp, *Gottesurteilstudien* (Munich, 1956), 324 and 328–32 (in favor of Eugenius’s agency in the authorization of this version of the rite); C. Leitmaier, *Die Kirche und die Gottesurteile: Eine rechtshistorische Studie* (Vienna, 1953), 17–18 and 75; P. Dinzelsbacher, *Das fremde Mittelalter: Gottesurteil und Tierprozess*, 2nd ed. (Darmstadt, 2020), 81. R. Bartlett, *Trial by Fire and Water: The Medieval Judicial Ordeal* (Oxford, 1986), 11 does not seem to be aware of these well-founded doubts about Eugenius’s authorship of this text.

⁵ See the editions by G. Waitz, “Formeln zu Gottesurteilen,” *Forschungen zur deutschen Geschichte* 16 (1876): 619–25, at 619–21 (no. 1); and by K. Zeumer in MGH, *Formulae Merovingici et Karolini Aevi*, 620 (no. 18). Further on Reg. lat. 612, see most recently Bischoff, *Katalog der festländischen Handschriften*, 3:434 (no. 6723), who dates it to “IX. Jh., ca. Ende”; and L. Kéry, *Canonical Collections of the Early Middle Ages (ca. 400–1140): A Bibliographical Guide to the Manuscripts and Literature* (Washington D.C., 1999), 120, who provides no information on its date or place of origin.

⁶ É. Pellegrin, “Nouveaux fragments du lectionnaire hagiographique de Fleury Paris, Bibl. Nat. Lat. 12606,” *Scriptorium* 39 (1985): 269–74, at 273–74 (incorrectly referring to the library of Saint-Martin de l’Île-Barbe). On the right-hand side of this entry stands the late medieval shelfmark “C XLIIJ.”

between 1605 and 1607 by the Celestine monk Jean du Bois. He brought the manuscript with him to Rome, where he died in 1626.

The new witness appears to be older than the Codex Reginensis version from the Tours region in terms of both its script and its language. The Caroline minuscule of Biblioteca Vallicelliana, Ms. C. 3, still shows some reminiscences of older scripts, for example, its broken “st”-ligature, which occurs more frequently in Septimanian scripts, is particularly striking. Also remarkable are the Romanisms in the morphology of the Latin, such as the missing initial consonant “h” (“omines,” “abes,” “oc,” and so on) or the absence of the final consonant “m” in the accusative (“cantet ... missa,” “faciat sacerdos aqua benedicta,” and “proicet ... in aqua”), a hint at a nasalising pronunciation of the Latin. Lastly, the repeated weakening of vowels is a sign of an already Romanizing Latin (“proicet,” “que,” and “obedias”). All these morphological features point to ninth-century Septimania as the origin place of the text.

The dating of the version of the cold-water ritual presented here remains problematic. There is no clear link between the dating of the copy of Claudius of Turin’s commentary on Matthew and the composition of the ritual. Despite the prohibition of the cold-water ordeal by Louis the Pious in August 829, there is ample evidence of its continued practice throughout the ninth century.⁷ For example, two replies by Archbishop Hincmar of Rheims provide arguments in support of the continued practice of this and other ordeals.⁸ That being said,

⁷ *Capitulare missorum Wormatiense* 12: “Ut examen aquae frigidae, quod actenus faciebant, a missis nostris omnibus interdicatur, ne ulterius fiat,” ed. A. Werminghoff and V. Krause, *MGH, Capitularia regum Francorum* 2 (Hanover, 1897), 14–17 (no. 192), at 16. See also Franz, *Die kirchlichen Benediktionen im Mittelalter*, 2:355; Leitmaier, *Die Kirche und die Gottesurteile*, 18; D. Barthélemy, “Diversité des ordalies médiévales,” *Revue historique* 280 (1988): 3–25, at 16; K. Ubl, “Der Entwurf einer imaginären Rechtsordnung im 9. Jahrhundert: Die Kapitulariensammlung des Benedictus Levita,” in *La productivité d’une crise: Le règne de Louis le Pieux (814–840) et la transformation de l’Empire carolingien*, ed. P. Depreux and S. Esders (Ostfildern, 2018), 185–204, at 194 and 196; Dinzelbacher, *Das fremde Mittelalter*, 77; and Nottarp, *Gottesurteilstudien*, 330–31. Based on a mistranslation of the passage, Bartlett, *Trial by Fire and Water*, 11, interprets this as a ban on an older form of the rite rather than on the practice itself.

⁸ Hincmar, *De divortio Lotharii regis et Theutbergae reginae*, Interrogatio 6, ed. L. Böhringer, in *Hincmar von Reims, De divortio Lotharii regis et Theutbergae reginae*, in *MGH, Concilia 4: Supplementum I* (Hanover, 1992), 101–261, at 150–59 (composed in 860); and Hincmar, *Epistola* 25, PL 126, cols. 161–71 (dated to 870/875). See also H. Schrörs, *Hincmar, Erzbischof von Reims: Sein Leben und seine Schriften* (Freiburg im Breisgau, 1884), 544 (no. 355) and 581; Franz, *Die kirchlichen Benediktionen im Mittelalter*, 2:316–19, 322, 355–56, and 398; Nottarp, *Gottesurteilstudien*, 334–37; Leitmaier, *Die Kirche und die Gottesurteile*, 18, 49, 50, 52–55, 75, 78 and 121; J. Gaudemet, “Les ordalies au Moyen Âge: Doctrine, législation et pratique canoniques,” in *La revue 2: Moyen Âge et temps modernes* (Bruxelles, 1965), 99–135, at 109; Bartlett, *Trial by Fire and Water*, 74–75, 77, 84–85, 88, 90, and 118; Barthélemy, “Diversité des ordalies médiévales,” 16, 18, and 24; M. Schmoekel, “Glaube und Glaubwürdigkeit vor Gericht: Ordale im Spannungsfeld von

however, is it coincidental to find the text of the cold-water ordeal in a manuscript that can be later located in Lyons, the place where Archbishop Agobard had produced sharp criticism of the legitimacy of the legal instrument of ordeals in his treatise *De divinis sententiis contra iudicium Dei* (composed around 817–822)?⁹ Or is our manuscript further evidence that in southern Gaul, Agobard's fight against the practice of divine judgments such as the cold-water ordeal was ultimately in vain?¹⁰

Here follows a diplomatic edition (= R) of the cold-water rite on fol. 1r/v of Rome, Biblioteca Vallicelliana, Ms. C. 3, which makes note of variants from Zeumer's edition (= Z).¹¹ The letters that have become illegible in the manuscript due to abrasion have been restored in angle brackets <...> using Zeumer's edition. Although the ninth-century text has been written in one block on both sides of the folio, this edition divides it into sections (a)–(g) of Zeumer's edition.

- (a) <C>um omnes vis mittere in aquam frigidam¹² ad probacion<em ita face>re debes accipe illos omnes quos voluntatem abes mittere <in aqua> educ eos in ecclesia quor<am¹³ om>nibus illis cantet presbiter missa et <fac eos ad> ipsam missam offerre Cum autem ad communionem venerint anteaquam¹⁴ com<unicent> interroget eos sacerdos cum coniuratione¹⁵ ita dicat
- (b) adiuro vos om<ines per patrem et> filium spiritum sanctum et per vestram cristianitatem quam suscepistis et per unig<enitum> filium dei et per sanctam trinitatem et per sanctum euuangelium et per istas reliquias que in ista <ecclesia> sunt¹⁶ ut non presumatis ullo

Recht und Gesellschaft," in *Karl von Amira zum Gedächtnis*, ed. P. Landau et al. (Frankfurt am Main, 1999), 291–308, at 303; and Dinzelbacher, *Das fremde Mittelalter*, 46, 84, and 111.

⁹ Agobard of Lyons, *De divinis sententiis contra iudicium Dei*, ed. L. van Acker, in *Agobardi Lugdunensis opera omnia*, CCCM 52 (Turnhout, 1981), 31–49. See also Franz, *Die kirchlichen Benediktionen im Mittelalter*, 2:314–15 and 328; S. Grelewski, *La réaction contre les ordalies en France depuis le IX^e siècle jusqu'au Décret de Gratien: Agobard, archevêque de Lyon et Yves, évêque de Chartres* (Rennes, 1924), 7–10 and 23–39; Leitmaier, *Die Kirche und die Gottesurteile*, 47, 49, 54–55, 75–76, and 104; Nottarp, *Gottesurteilstudien*, 333–34; Gaudemet, "Les ordalies au Moyen Âge," 109; E. Boshof, *Erzbischof Agobard von Lyon: Leben und Werk*, (Cologne, 1969), 43 and 45–46; Bartlett, *Trial by Fire and Water*, 72–73 and 84; Schmoeckel, "Glaube und Glaubwürdigkeit vor Gericht," 294–95 and 301; Ubl, "Der Entwurf einer imaginären Rechtsordnung," 191–92; and Dinzelbacher, *Das fremde Mittelalter*, 110.

¹⁰ For example, the synod of Narbonne in 1054 attests to the survival of the cold-water ordeal in the region by stipulating this trial of God as a sanction in the event of a breach of the Peace of God. See Nottarp, *Gottesurteilstudien*, 391; and Gaudemet, "Les ordalies au Moyen Âge," 113 and 117.

¹¹ For Zeumer's edition, see n. 5, above. For the variants of sections (e)–(f), see MGH, *Formulae Merovingici et Karolini Aevi*, 694–97 (nos. 1, 3, and 5).

¹² aquam frigidam] aquae frigidae Z

¹³ quoram] et coram Z

¹⁴ anteaquam] antequam Z

¹⁵ cum coniuratione] coniurationem Z

¹⁶ in ista ecclesia sunt] in ista sunt ecclesia Z

- modo communicare neque accedere ad altare si vos hoc fecistis .
aut consentistis¹⁷ aut scitis quis oc egerit
- (c) si autem omnes tacuerint et nullus hoc dixerit accedat sacerdos
ad¹⁸ altare . si vos hec fecistis¹⁹ et communi-cet eos²⁰ po>stea vero
communicet illos²¹ quos vult in aquam mittere <c>um autem <com>-
municat²² dicat sacerdos per singulos corpus hic et sanguis²³
domini nostri iesu christi sit tibi ad probacionem²⁴ odie
- (d) expleta missa faciat sacerdos aqua benedicta²⁵ accipiat aquam
be-nedictam et²⁶ vadat ad illum loco²⁷ ubi omnes probabuntur
cum autem ve<nerint ad ipsum> locum det illis omnibus²⁸ bibere de
aqua benedicta cu<m autem dede>rit dicat <ad unumquemque> hec
aqua fiat tibi ad probacionem Postea v<ero coniuret aquam> ubi
illos mittit post coniuracionem aque exuat illis vestim<entis eorum
et faciat> eos per singulos osculare²⁹ sanctum euuangelium et
cruce[m] christi et post <hec de ipsa aq-ua benedicta unum-
quemque³⁰ et proiciet³¹ eos statim per singulos in aqua <hec autem
omnia> facere debes ieiunos³² neque illi antea commedent que³³
ipsum mittunt <in aqua>
- (e) <Adiuro te aqua in n>omine dei patris omnipotentis qui te in
principio creavit <et te iussit ministrare> humanis necessitatibus
qui etiam te <di>ussit segre<gari ab aquis superiori-bus Adiuro te
etiam per ineffabile nomen <christi iesu> filii dei omnipotentis (fol.
1r/v) sub cuius pedibus mare et³⁴ elementum aquarum . se calca-
bile prebueris³⁵ qui eciam batizare in aquarum elemento voluit³⁶
adiuro te etiam per spiritum sanctum qui super dominum

¹⁷ consentistis] consensistis Z

¹⁸ ad] *add. supra lin.* R

¹⁹ si vos hec fecistis] *om.* Z

²⁰ eos] *om.* Z

²¹ illos] eos Z

²² communicat] communicant Z

²³ sanguis] sanguinis Z

²⁴ probacionem] comprobationem Z

²⁵ aqua benedicta] aquam benedictam et Z

²⁶ et] *om.* Z

²⁷ loco] locum Z

²⁸ illis omnibus] omnibus illis Z

²⁹ osculare] osculare Z

³⁰ unumquemque] aspergat super unumquemque hominem Z

³¹ proiciet] proiciat Z

³² debes ieiunos] debeat ieiunus Z

³³ commedent que] comedant qui Z

³⁴ et] *om.* Z

³⁵ prebueris] prebuit Z

³⁶ batizare in aquarum elemento voluit] in aquarum elemento baptizari voluit Z

batizato³⁷ descendit . Adiuuro te per nomen sancte³⁸ trinitatis cuius voluntate aquarum elementum divisum est . et populus israel³⁹ per illut⁴⁰ vestigiis⁴¹ transit⁴² ad cuius etiam vestigii⁴³ invocacionem elias⁴⁴ ferrum quod de manubrio exierat super aquam natate fecit ut nullo modo suscipias unc ominem nomine illo⁴⁵ si⁴⁶ aliquo ex oc⁴⁷ culpabilis⁴⁸ obicitur scilicet aut per opera aut per consensu aut per sciencia⁴⁹ aut per ullum ingenium⁵⁰ sed fac eum natate super te . et nulla possit esse contra te causa ab aqua⁵¹ facta aut ulla iorestigacio⁵² que illut possit non manifestare . adiuurata autem per nomen christi precipim<us tibi> ut nobis per nomen eius obediens⁵³ cui omnis creatura servit quem herubin et serafim clamant⁵⁴ dicentes Sanctus Sanctus Sanctus dominus deus exercituum qui etiam regnat et dominator per infinita secula seculorum . AMen .

- (f) Adiuuro te omo illo⁵⁵ per invocacionem domini <nostri> iesu christi . et per iudicium aqua frigida⁵⁶ adiuuro te per patrem et filium⁵⁷ spiritum sanctum⁵⁸ trinitatem inseparabilem et per dominum nostrum iesum christum et per omnes angelos et arcangelos et per omnes sanctos dei et per diem tremente⁵⁹ iudicii et per <XXVIII> seniores qui cotidie deo⁶⁰ laudant et per IIIIor euuangelistas . marcum et matteum⁶¹ lucam et <iohannem et> per XII apostolos

37 batizato] baptizatum Z
 38 sancte] sanctae et individuae Z
 39 israel] Israheliticus Z
 40 illut] illud Z
 41 vestigiis] siccis vestigiis Z
 42 transit] transivit Z
 43 vestigii] *om.* Z
 44 elias] Heliseus Z
 45 nomine illo] N. Z
 46 si] in *add.* Z
 47 ex oc] est *add.* Z
 48 culpabilis] quod illi *add.* Z
 49 aut per consensu aut per sciencia] aut per consensum, aut per conscientiam Z
 50 ingenium] o *corr.* u R
 51 ab aqua] aliqua Z
 52 iorestigacio] *sic* R. prestigatio Z
 53 obediens] obedias Z
 54 clamant] laudant Z
 55 omo illo] N. Z
 56 aqua frigida] aquae frigidae Z
 57 filium] et *add.* Z
 58 spiritum sanctum] et per *add.* Z
 59 tremente] tremendum Z
 60 deo] Deum Z
 61 marcum et matteum] Matheum Marcum Z

et per XII profetas . et per omnes sanctos dei et⁶² per martires⁶³ virgines adque confessores⁶⁴ . prin<cipa>tus . et potestates . et per dominaciones et virtutes et per tronos cherubin adque⁶⁵ serafim <et> per omnia celestium agmina⁶⁶ te adiuro . et per III pueros qui cotidie ante dominum adsis<t>unt⁶⁷ sidrac misac et abdenago . et per centum quadraginta IIIor milia qui pro chri<sti nom>ina⁶⁸ passi sunt . et per mariam matrem domini nostri iesu christi et per⁶⁹ populum sanctum dei . et per illum⁷⁰ babtismum quem⁷¹ <super te r>egeneraverit⁷² sacerdos te adiuro⁷³ . si de oc furto⁷⁴ scisti⁷⁵ aut vidisti aut baiolasti †⁷⁶ in domum <tuam> recepisti aut consenciens vel consentenus⁷⁷ exinde fuisti aut si aliut⁷⁸ cor incrassatum aut cor⁷⁹ induratum . aut si culpabilis⁸⁰ es evanescat cor tuum et non suscipiat <te aqua ne>que⁸¹ illum⁸² malificium tuum⁸³ possit contra oc prevalere sed manifestetur⁸⁴ propter hoc nixis sed<epreca>mur⁸⁵ domine iesu christe fac signum tale ut si culpabilis est hic omo nullatenus recipiant<ur>⁸⁶ ab aqua> Hoc autem domine iesu christe fac ad laudem et gloriam⁸⁷ invocacionem nominis tui . ut omnes cognos<cant> quia tu es deus noster⁸⁸

⁶² et] *om.* Z

⁶³ per martires] et *add.* Z

⁶⁴ virgines adque confessores] a^dque R. confessores atque virgines Z. et per *add.* Z

⁶⁵ adque] et Z

⁶⁶ celestium agmina] secreta caelestia Z

⁶⁷ dominum adsistunt] Deum laudant Z

⁶⁸ nomina] nomine Z

⁶⁹ per] cunctum *add.* Z

⁷⁰ illum] illud Z

⁷¹ quem] quod Z

⁷² regeneraverit] regeneravit Z

⁷³ adiuro] ut *add.* Z

⁷⁴ furto] furtu Z

⁷⁵ scisti] scis Z

⁷⁶ †] aut Z

⁷⁷ consentenus] consentaneus Z

⁷⁸ aliut] habes Z

⁷⁹ aut cor] vel Z

⁸⁰ culpabilis] inde *add.* Z

⁸¹ neque] nec Z

⁸² illum] *add supra lin.* R. ullum Z

⁸³ tuum] *om.* Z

⁸⁴ possit contra oc prevalere sed manifestetur] contra hoc prevaleat Z

⁸⁵ propter hoc nixis sedeprecamur] *sic* R. Propterea obnixte te deprecamur Z

⁸⁶ recipiantur] recipiatur Z

⁸⁷ ad laudem et gloriam] tuam per *add.* Z

⁸⁸ deus noster] noster *om.* Z

benedictus qui cum patre et filio spiritu sancto⁸⁹ vivis et regnas per
immortalia secula⁹⁰. Amen.

- (g) oc iudicium creavit omnipotens deus quia verum est et beatus
eugenius papa⁹¹ et domnus hludouicus im̄perator illud⁹² consti-
tuerunt ut istud faciant omnes⁹³ episcopi abbati et comites⁹⁴ in
omnem <regionem et probatum> apud nos est⁹⁵ et certum et verum
utique est ideo⁹⁶ autem inventum est et⁹⁷ non licet omi<nibus⁹⁸
periurare in> sancta sanctorum

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⁸⁹ cum patre et filio spiritu sancto] *om. Z*

⁹⁰ per immortalia secula] in secula seculorum *Z*

⁹¹ eugenius papa] papa Eugenius *Z*

⁹² illud] illi *Z*

⁹³ omnes] homines *add. Z*

⁹⁴ abbati et comites] abbati comiti *Z*

⁹⁵ probatum apud nos est] probatum est apud nos *Z*

⁹⁶ utique est ideo] est utique id. Hoc *Z*

⁹⁷ et] ut *Z*

⁹⁸ ominibus] *om. Z*