

**CHARLES THE BALD's 'EDICT OF PÎTRES' (864): A  
TRANSLATION AND COMMENTARY**

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To my parents, Diane and Tony

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## **Part I: Introduction**

“With the advice of his faithful men and following the custom of his predecessors and forefathers he drew up *capitula* to the number of thirty-seven, and he gave orders for them to be observed as laws (*legalia*) throughout his whole realm.”<sup>1</sup>

With this description of the Edict of Pîtres (864), the *Annals of St.-Bertin*, our most detailed narrative source for West Francia in the mid-ninth century, introduce a host of issues that run through the wider arena of Carolingian capitulary scholarship. Capitularies were royal decrees put forth by the king, with the support of an assembly of his nobles and clerics.<sup>2</sup> Their scope encompassed anything within the umbrella of royal authority: coinage and economic issues, ecclesiastical matters, military planning and infrastructure, and royal inheritance, to name a few areas. The Edict of Pîtres itself is the most significant example of this type of document we have. Put forth by Charles the Bald, king of West Francia from AD 840 to 877, the document is a statement on royal authority and a snapshot of the problems facing the king at that time.

Charles the Bald was the grandson of Charlemagne (d. 814) and son of Louis the Pious (d. 840). His realm, West Francia (*Francia Occidentalis*), was roughly equivalent to the territory of modern France. His father’s death saw the division of the Carolingian empire, and Charles’ reign was marked by constant struggle with his fellow Carolingians for the pieces.

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<sup>1</sup> From the English translation of the *Annales Bertiniani*, hereafter referred to as the *AB*. *The Annals of St.-Bertin: Ninth-Century Histories, vol. 1*, trans. Janet L. Nelson (Manchester: Manchester University Press, 1991), year 864, pg. 118. For the Latin, see *Annales Bertiniani*, ed. G. Waitz, *MGH SSRG* (Hanover, 1883), 72: *Capitula etiam ad triginta et septem consilio fidelium suorum more praedecessorum ac progenitorum suorum regum constituit et ut legalia per omnem regnum suum observari praecepit*. Subsequent citations will be from Nelson’s English translation, unless stated otherwise.

<sup>2</sup> The importance of support from assembly attendees is a matter of heavy contention among scholars, especially if the statement is applied across the entirety of the Carolingian dynasty. The present study focuses on the reign of Charles the Bald, and the importance of the assembly in creating capitularies is generally accepted for his kingship (the mid-ninth century).

Charles the Bald's kingship emerged from years of civil war between him and his brother kings, the sons of Louis the Pious.<sup>3</sup> The Treaty of Verdun (843) had left each with a third of the empire.<sup>4</sup> Charles held the west, with Lothar in the Middle Kingdom (*Francia Media*) and Louis the German furthest east (*Francia Orientalis*).<sup>5</sup> Verdun had left the once-united Carolingian empire with the precarious arrangement of three legitimate Carolingian kings. Charles and Louis made common cause against Lothar for much of the 840s. The 850s, however, saw a souring of relations between the two brothers, a situation made more unstable by Lothar's death in 855. Louis' invasion of Charles' realm in 858 marked a low point in Charles' reign. Though he only narrowly avoided losing everything, he consolidated his power throughout the 860s, and by 875, he was able to seize the title of emperor before Louis, his elder, could take it for himself.

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<sup>3</sup> See Nithard, *Historiarum Libri IV*, ed. P. Lauer, in *Histoire des Fils de Louis le Pieux* (Paris, 1926), our best source for the years of the civil war (840-843). For an English translation, see *Carolingian Chronicles: Royal Frankish Annals and Nithard's Histories*, trans. Bernhard Walter Scholz (Ann Arbor: University of Michigan Press, 1970).

<sup>4</sup> The treaty divided the empire based on equal distribution of available resources, not land area. Verdun has received a great deal of scholarly attention, as historians long viewed it as the genesis of the modern states of Germany and France. See Theodor Mayer, ed., *Der Vertrag von Verdun, 843* (Leipzig, 1943) for an example of this. On the treaty more generally, see Janet Nelson, *Charles the Bald* (London, 1992), 131-135; Eric Goldberg, *Struggle for Empire: Kingship and Conflict under Louis the German, 817-876* (Ithaca, NY: Cornell University Press, 2006), 113-116; F.L. Ganshof, "On the Genesis and Significance of the Treaty of Verdun (843)," in *The Carolingians and the Frankish Monarchy*, trans. Janet Sondheimer (Ithaca, NY: Cornell University Press, 1971), 289-302, originally published as "Zur Entstehungsgeschichte und Bedeutung des Vertrages von Verdun (843)," *Deutsches Archiv für Erforschung des Mittelalters* XII (1956): 313-30; and Peter Classen, "Die Verträge von Verdun und Coulaines, 843, als politische Grundlagen des westfränkischen Reiches," *Historische Zeitschrift* (196): 1-35.

<sup>5</sup> Lothar is the focus of much less scholarship than his younger brother, Louis the German (or his youngest brother Charles, for that matter), most likely as a result of the historical 'orphaning' of his kingdom, as opposed to the claims on Louis and Charles' kingdoms by later Germany and France, respectively. For Lothar, see Elina Mart Screen, *The reign of Lothar I (795-855), Emperor of the Franks, through the charter evidence*, unpublished dissertation (Cambridge, 1999); and Elina Mart Screen, "The importance of the emperor: Lothar I and the Frankish civil war, 840-843," *Early Medieval Europe* vol. 12 no. 1 (2003): 25-51. For Louis the German, see Goldberg, *Struggle*; Wilfried Hartmann, *Ludwig der Deutsche* (Darmstadt, 2002); Boris Bigott, *Ludwig der Deutsche und die Reichskirche im Ostfränkischen Reich (826-876)* (Husum, 2002); and Ernst Dümmler, *Geschichte des Ostfränkischen Reichs*, 2nd ed. Vols. 1 and 2 (Leipzig, 1887-1888).

Rivalry between the brothers was exacerbated by the new set of choices facing the Frankish nobility.<sup>6</sup> The nobility often held estates that spanned the divisions between the kingdoms, and the loyalties of many were far from set. A closing opportunity in one Carolingian court could represent an opening in another. Their options are made clear by a wave of defections by West Frankish nobles to Louis with his 858 invasion. Louis was supposedly invited into West Francia by noblemen who had tired of Charles' 'tyranny' and misrule.<sup>7</sup> Legitimate, available royal replacements were a dangerous feature of ninth-century politics. Charles had another such replacement, ensconced in his own subkingdom (*regnum*) of Aquitaine, who threatened to undermine the support of his nobility: Pippin II.<sup>8</sup> With the death of Pippin of Aquitaine, Charles' brother, in 838, Louis the Pious had decided to

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<sup>6</sup> The concept of Frankish nobility in the Carolingian period was fluid and open, relative to the idea of the 'nobility' that would begin to crystalize in the High Middle Ages. For a discussion of the terminology of nobility in this period, see Timothy Reuter, "The medieval nobility in twentieth-century historiography," in *Companion to Historiography*, ed. Michael Bentley (London, 1997), 178-181. On the subject of Frankish nobility under the Carolingians, see Stuart Airlie, "The aristocracy in the service of the state in the Carolingian period," in *Staat im frühen Mittelalter*, ed. Stuart Airlie, Walter Pohl, and Helmut Reimitz (Vienna, 2006), 93-111; Janet Nelson, "Nobility in the ninth century," in *Nobles and Nobility in Medieval Europe: Concepts, Origins, Transformations*, ed. Anne Duggan (Woodbridge, 2000), 43-51; Paul Fouracre, "The Origins of the Nobility in Francia," in *Nobles and Nobility in Medieval Europe: Concepts, Origins, Transformations*, ed. Anne Duggan (Woodbridge, 2000), 17-24; Karl Ferdinand Werner, "Important Noble Families in the Kingdom of Charlemagne—A Prosopographical Study of the Relationship between King and Nobility in the Early Middle Ages," in *The Medieval Nobility: Studies on the Ruling Classes of France and Germany from the Sixth to the Twelfth Century*, ed. and trans. Timothy Reuter (Amsterdam, 1978), 137-202, originally published as "Bedeutende Adelsfamilien im Reich Karls des Grossen," in *Karl der Grosse: Persönlichkeit und Geschichte*, vol. 1 of *Karl der Grosse: Lebenswerk und Nachleben*, ed. Helmut Beumann (Düsseldorf, 1965), 83-142; and Gerd Tellenbach, *Königtum und Stämme in der Werdenzeit des Deutschen Reiches* (Weimar, 1939), with a discussion of the *Reichsaristokratie* on pg. 41-69.

<sup>7</sup> For an English translation of the *Annales Fuldenses*, hereafter referred to as the *AF*, see *The Annals of Fulda: Ninth-Century Histories*, vol. 2, trans. Timothy Reuter (Manchester: Manchester University Press, 1992). *AF* 858, pg. 41-42. For a Latin edition, see *Annales Fuldenses*, ed. F. Kurze, MGH SSRG (Hanover, 1891). Subsequent citations will be from Reuter's English translation, unless stated otherwise.

<sup>8</sup> For discussion of Carolingian Aquitaine, see Jane Martindale, "Charles the Bald and the Government of the Kingdom of Aquitaine," in *Charles the Bald: Court and Kingdom*, ed. Margaret T. Gibson and Janet L. Nelson (Oxford, 1981), 109-135; John Gillingham, "Ademar of Chabannes and the history of Aquitaine in the reign of Charles the Bald," in *Charles the Bald: Court and Kingdom*, ed. Margaret T. Gibson and Janet L. Nelson (Oxford, 1981), 3-14; Roger Collins, "Pippin I and the kingdom of Aquitaine," in *Charlemagne's Heir: New Perspectives on the Reign of Louis the Pious (814-840)*, ed. Peter Godman and Roger Collins (Oxford, 1990), 363-389; and Léonce Auzias, *L'Aquitaine Carolingienne* (Toulouse, 1937).



disinherit Pippin's sons and give Charles the kingship of Aquitaine.<sup>9</sup> One of Pippin's disinherited sons, Pippin II, became a perennial problem for Charles, as he was a rallying point for Aquitanian discontent. He supported Lothar at the battle of Fontenoy (841), allied with Viking raiders, and generally undermined Charles' authority in Aquitaine, before finally being condemned at the assembly at Pîtres in 864.<sup>10</sup> The nobility could also find a shifting array of both allies and enemies in Brittany, an area peripheral to the empire but still entangled in Carolingian politics.<sup>11</sup>

The intertwined problems of dynastic politics and noble unrest were paired with an increase in external aggression from Vikings, Muslims, and Magyars. The Vikings principally threatened the rich river valleys of West Francia, and they took full advantage of internal Carolingian conflict to raid and pillage.<sup>12</sup> By the 850s, every year saw substantial attacks, and Viking parties had begun wintering in West Francia, rather than returning home after a

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<sup>9</sup> Pippin I had been disinherited by Louis the Pious in 832 (Nithard I, 4, pg. 133), which removed Pippin II from the line of succession. He, however, still had support among the Aquitanian aristocracy. When Louis the Pious outlined a *divisio regnum* between Lothar and Charles at Worms in 838, he had to enter Aquitaine and force Pippin II and his supporters to yield to Charles' newly granted authority in the region (*AB* 839, pg. 44-48).

<sup>10</sup> For Fontenoy, see *AB* 841, pg. 50, and Nithard II, 10, pg. 153. For Pippin's alliance with Viking raiders, see *AB* 857, pg. 84. Some scholars have argued that Pippin actually began practicing paganism, based on an entry in the *AB* about his joining a band of Vikings and subsequent *ritum eorum servat*, though Nelson argues that this refers to Viking lifestyle, rather than religion (*AB* 864, pg. 111 n. 3). For Pippin's trial at Pîtres, see *AB* 864, pg. 119.

<sup>11</sup> For a discussion of Frankish control in Brittany, see Wendy Davies, "On the distribution of political power in Brittany in the mid-ninth century," in *Charles the Bald: Court and Kingdom*, ed. Margaret T. Gibson and Janet L. Nelson (Oxford, 1981), 87-107; and Julia M.H. Smith, *Province and Empire: Brittany and the Carolingians* (Cambridge: Cambridge University Press, 1992). For an example of Charles' nobles allying with Bretons against him, see *AB* 858, pg. 86-87. Pippin II joined an alliance of Bretons and Franks against Charles in 859 (*AB* 859, pg. 90).

<sup>12</sup> The historiography on Vikings is vast. For Charles the Bald's efforts against them, see Simon Coupland, *Charles the Bald and the Defence of the West Frankish Kingdom Against the Viking Invasions 840-877*, unpublished dissertation (University of Cambridge, 1987). For broader studies of the Vikings, see Horst Zettel, *Das Bild der Normannen und der Normanneneinfälle in westfränkischen, ostfränkischen und angelsächsischen Quellen des 8. bis 11. Jahrhunderts* (München, 1977); and Walther Vogel, *Die Normannen und das Fränkische Reich bis zur Gründung der Normandie, 799-911* (Heidelberg, 1906).

season of raiding.<sup>13</sup> Frankish nobles were, at times, complicit in these attacks. Charles had to face combined forces of Bretons and Vikings, and Pippin II was accused of apostasy after joining a Viking band. Charles managed to limit the destructiveness of these raids in the 860s and 870s with an increased focus on physical infrastructure within the realm, particularly the construction of fortified bridges to control entrance to the two major waterways in his kingdom, the Seine and the Loire.<sup>14</sup> His primary means of making his will known throughout the kingdom, enabling major projects like the fortified bridges, was the capitulary, a document central to Carolingian administration and legislation since the reign of Charlemagne.<sup>15</sup>

The Edict of Pîtres, described in the quotation from the *AB* at the beginning of this introduction, is an important example of the capitulary tradition.<sup>16</sup> The decree was issued at

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<sup>13</sup> Though textual sources indicate that the intensity of Viking attacks increased, there has been much discussion on the extent of actual damage done by their raids. Albert D'Haenens, *Les invasions Normandes en Belgique au IX<sup>e</sup> siècle* (Louvain, 1967) argues that contemporary claims of destruction were exaggerated, but archaeological research over the last several decades have shown that contemporary sources create a fairly accurate picture of the damage caused by the Northmen. For a survey of archaeological reports regarding Viking attacks in France, see Lesley Anne Morden, "How Much Material Damage Did the Northmen Actually Do to Ninth-Century Europe?" (Ph.D. diss., Simon Fraser University, 2007), 199-221. See Arnaud Prié, "Paris (Seine). 15, rue du Temple (VI<sup>e</sup> arrondissement)," *Archéologie Médiévale* 28 (Caen: Publications du CRAHM, 1998), 283-284, for finds of defensive walls and ditches around parts of mid-ninth-century Paris. See Jacques Le Maho, "Les fouilles de la cathédrale de Rouen de 1985 à 1993: Esquisse d'un premier bilan," *Archéologie Médiévale* 24 (Caen: Publications du CRAHM, 1994), 28-29, for evidence of burning at Rouen, which supports descriptions of raids by the Northmen.

<sup>14</sup> For discussion of Charles' bridge fortification efforts, see Ferdinand Lot, "Le pont de Pîtres," *Le moyen âge* 18 (1905): 1-27; Kurt Jäschke, *Burgenbau und Landesverteidigung um 900* (Sigmaringen, 1975); Simon Coupland, "The fortified bridges of Charles the Bald," *Journal of Medieval History*, vol. 17 (1991): 1-12; and Carroll Gillmor, "The Logistics of Fortified Bridge Building on the Seine under Charles the Bald," in *Anglo-Norman Studies XI: Proceedings of the Battle Conference 1988*, ed. R. Allen Brown (Suffolk, 1989), 87-106.

<sup>15</sup> See F.L. Ganshof, *Recherches sur les Capitulaires* (Paris, 1958), a foundational assessment of the Carolingian capitulary tradition. A detailed account of the capitulary can be found in the section "The capitulary and Carolingian legislation", below.

<sup>16</sup> Twelve known manuscripts of the Edict have survived to the present, though not all contain the complete capitulary as translated below. See the editorial introduction to the Edict in MGH, Cap., II, no. 273, pg. 310-311, for the manuscripts used in the critical edition of the MGH. The following manuscripts are those listed in Hubert Mordek, *Bibliotheca capitularium regum Francorum manuscripta: Überlieferung und Traditionszusammenhang der fränkischen Herrschererlasse* (*Monumenta Germaniae Historica*) (1995), 1108. The manuscripts date from either the ninth and tenth centuries (Heiligenkreuz 217; London Add. 22398; München Lat. 3853; Cod. München Lat. 29555/1; New Haven MS 413; Paris BN Lat. 5095; Paris BN Lat. 9654; Vatican Pal. Lat 582;), or the sixteenth and seventeenth centuries (Cod. Paris Baluze 94; Rome BV C.16; Vatican Reg.

an assembly at Pîtres (*Pistis*), a royal palace near the confluence of the Seine and the Eure. Pîtres, now the location of a French commune, is located around 100km northwest of Paris and 15km southeast of Rouen. The capitulary, so named for its division into individual *capitula*, or chapters, was a document issued by the king to address both immediate, specific problems in his realm and more systematic reforms of legislation and infrastructure. The Edict, issued by the king with the consensus of the West Frankish nobility in 864, consists of thirty-seven *capitula*, giving it a wide breadth and far reach in its subject matter.<sup>17</sup> Though it has been used in historical analysis of Charles the Bald's reign,<sup>18</sup> of Carolingian kingship,<sup>19</sup> and of medieval law,<sup>20</sup> the Edict itself has never been subject to a comprehensive

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Lat. 291; Vatican Vat. Lat. 4982). The manuscripts take a variety of forms: some have the entirety of the capitulary (*Adnuntiatio*, *Edictum*, and supplementary *capitula*- parts A, B, and C of the MGH edition), some have only the *Edictum* (B), and some are missing a number of *capitula* within the *Edictum*. Not all have the full wording of each *capitulum* as found in the MGH. See Mordek, *Bibliotheca*, for a description of each manuscript (pg. 1108 for relevant pagination), and its context in the rest of collection in which it's found.

<sup>17</sup> The capitulary is divided into three sections, with the 37 *capitula* making up the body of the *Edictum* itself (part B of the MGH edition). Before the *Edictum* are the three *capitula* of the *Adnuntiatio* (part A), and following the *Edictum* are the three supplementary *capitula* (part C). Both parts A and C are sometimes excluded in manuscripts (see note 16), and the *capitula* in both are written in a different style than the *Edictum*. Most apparent is the shift from third to second person address in parts A and C.

<sup>18</sup> Though Charles the Bald is often analyzed as part of the Carolingian dynasty as a whole, particularly in the context of the decline of that dynasty, not many substantive studies have been dedicated to him as a ruler. This is largely because of the traditional view of his place in the decline of Carolingian power. See Montesquieu, C.L.S., *The Spirit of Laws*, trans. and ed. A.M. Cohler, B.C. Miller, and H.S. Stone (Cambridge, 1989) 701-702, 708, for an early enunciation of this negative view, and see Nelson *Charles*, 12-13, for a discussion of Montesquieu's role in the historiography. For works focused on Charles, see Ferdinand Lot and Louis Halphen, *Le règne de Charles le Chauve, I 840-851* (Paris, 1909); Margaret T. Gibson and Janet L. Nelson, ed., *Charles the Bald: Court and Kingdom* (Oxford, 1981); and Nelson, *Charles*. Both Nelson and Lot have produced a large body of articles on various aspects of Charles' reign and ninth-century Francia. For Nelson, see her collections of essays: Janet Nelson, *Politics and Ritual in Early Medieval Europe* (London, 1986); and Janet Nelson, *The Frankish World, 750-900* (London, 1996). For Lot, see the large posthumous collection Ferdinand Lot, *Recueil des travaux historiques de Ferdinand Lot*, 3 vols. (Geneva and Paris, 1968-1973). On Charles the Bald's military, see Coupland, *Charles the Bald*; and Carroll Gillmor, *Warfare and the military under Charles the Bald, 840-877*, unpublished dissertation (UCLA, 1976).

<sup>19</sup> For examples of scholarship on later Carolingian kingship, see the section below on the historiography of consensus. Much of the attention on the nature of Charles' kingship revolves around his relationship with his aristocracy, especially regarding how that relationship had changed since the time of Charlemagne. The Edict of Pîtres is often an important part of that discussion of consensus.

<sup>20</sup> A few examples of works that reference the Edict of Pîtres as part of an analysis of medieval law are Julius Goebel, Jr., *Felony and Misdemeanor: A Study in the History of English Criminal Procedure*, Vol. 1 (New York, 1937), 214-215; Heinrich Brunner, *Deutsche Rechtsgeschichte*, 2nd edition vol. 1 (Leipzig, 1906), 546-548; Nicholas Brooks, "The Development of Military Obligations in Eighth and Ninth-Century England," in *England before the Conquest: Studies Presented to Dorothy Whitelock*, ed. P. Clemons and K. Hughes (Cambridge, 1971), 81; Yves

commentary on its legislative roots and the context of its promulgation.<sup>21</sup> It has also never been translated in its entirety, though various individual *capitula* from the Edict have been translated into a variety of languages.<sup>22</sup> The present study will provide both historical context for the Edict and a full translation of the document itself.

The historiographical issues that impinge on scholarly use of the capitularies are central to the study of the early medieval period as a whole. These royal documents constitute the central pillar of most analyses of Carolingian power. As a result, scholars' use of capitularies tends to be indicative of their assessment of Carolingian authority and effectiveness, both for the dynasty as a whole and for individual rulers. The acceptance of the capitularies as evidence of royal action leads to a strong estimation of royal power, while their rejection, or their assignation as purely prescriptive, is characteristic of a weak estimation. The weak view of capitularies includes a number of approaches. Capitularies have been seen as solely prescriptive, with little proof of effective enforcement, particularly under Charles the Bald.

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Sassier, "La roi et la loi chez les penseurs du royaume occidental du deuxième quart du IXe à la fin du XIe s.," *Cahiers de civilisation médiévale* Vol. 43 No. 171 (2000): 267-268; Janet Nelson, "Legislation and Consensus in the Reign of Charles the Bald," in *Politics and Ritual in Early Medieval Europe* (London: Hambledon Press, 1986), 91-116; and Ganshof, *Recherches*, 34-37.

<sup>21</sup> Janet Nelson has worked on aspects of Charles the Bald's use of capitularies more generally, drawing heavily on the Edict of Pîtres in the process. See Nelson, "Legislation," 91-116, for a general analysis of Charles' use of capitularies; and Janet Nelson, "Translating Images of Authority: The Christian Roman Emperors in the Carolingian World," in *The Frankish World 750-900* (London, 1996), 89-98, for the imperial Roman influences on the Edict. Similarly, see F.L. Ganshof, *Le Droit romain dans les Capitulaires et dans la Collection d'Ansegise* (Milan, 1969), 30-38, for an earlier examination of the influence of Roman law on Carolingian capitularies, including specific treatment of the Edict.

<sup>22</sup> The Edict of Pîtres has been quoted, both in Latin and in translation, in a large number of scholarly works. See Nelson, "Legislation," 91-116; Rosamond McKitterick, *The Carolingians and the Written Word* (Cambridge, 1989), 31-32; Simon Coupland, "L'article XI de l'Edit de Pîtres du 25 juin 864," *Bulletin de la Société Française de Numismatique* 40/9 (1985): 713-714; Coupland, "Bridges," 4; Ganshof, *Droit romain*, 30-38; Philip Grierson, "The *Gratia Dei Rex* coinage of Charles the Bald," in *Charles the Bald: Court and Kingdom*, ed. Margaret T. Gibson and Janet L. Nelson (Oxford, 1981), 41-42; Jean Lafaurie, "L'article XI de l'Edit de Pîtres du 25 juin 864," in *Lagom: Festschrift für Peter Berghaus zum 60. Geburtstag am 20. November 1979*, ed. Thomas Fischer and Peter Ilich (Münster, 1981), 114; Peter Johaneck, "Der frankische Händel der Karolingerzeit im Spiegel der Schriftquellen," in *Untersuchungen zu Handel und Verkehr der vor- und frühgeschichtlichen Zeit in Mittel- und Nordeuropa: IV, Der Handel der Karolinger- und Wikingerzeit*, ed. Klaus Düwel, et al. (Göttingen, 1987), 24; Carroll Gillmor, "Charles the Bald and the small free farmers, 862-869," in *Military aspects of Scandinavian society in a European perspective, AD 1-1300*, ed. Anne Nørgård Jørgensen and Birthe L. Clausen (Copenhagen, 1997), 38-47; Lot, "Le Pont," 21; and Roy Cave and Herbert Coulson, eds., *Source Book for Medieval History* (New York, 1965), 133-135.

They have also been characterized as distorting, a lens through which formulaic language serves to conceal substantive changes in the nature of authority over the course of the Carolingian dynasty.<sup>23</sup>

The strong view holds capitularies as effective tools of royal command, carried out by the Frankish nobility. The strong view does not necessarily focus on the absolute strength of the king, but rather on the effectiveness of the capitularies as tools within the context of Carolingian governance. Recent scholarship, in which the ‘strong’ view is most obvious, has tended to emphasize the cooperative connections between aristocracy and king. This allows for the evidence of consensus politics and of reciprocal relationships between king and his powerful subjects without using this evidence in an argument for royal weakness or aristocratic encroachment.<sup>24</sup>

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<sup>23</sup> This ‘weak’ view can encompass a number of approaches, but they tend to fall within a spectrum between two issues. At one end, scholars argue that capitularies themselves were not a particularly effective means of communicating and enforcing royal will, and on the other, whatever the capitularies’ force under Charlemagne, their nature had changed fundamentally by the reign of Charles the Bald. This change supposedly reflected a growing weakness of the king’s position. For a denigration of the capitularies as useful evidence, see Hans Delbrück, *History of the Art of War, vol. III: Medieval Warfare*, trans. Walter J. Renfroe, Jr. (Lincoln, NE: University of Nebraska Press, 1990), 14-63. A rather more extreme position is taken by Simon Stein, “Etude critique des capitulaires francs,” *Le Moyen Âge* 51 (1941): 1-75, in which Stein argues that many of Charlemagne’s capitularies are actually forgeries from Charles the Bald’s reign, an assertion which would cause a great deal of confusion in our understandings of the capitulary tradition, if it were actually supportable. For a pessimistic view of the enforcement of Charlemagne’s capitularies, see the work of Ganshof, summed up by this phrase: “little of this programme [of imperial government] was realised” (F.L. Ganshof, “Charlemagne’s programme of imperial government,” in *The Carolingians and the Frankish Monarchy*, trans. Janet Sondheimer (Ithaca, NY, 1971), 70, originally published as “Le programme de gouvernement impérial de Charlemagne,” *Renovatio Imperii. Atti della giornata internazionale di studio per il Millennario, Ravenna 4-5 November 1961* (Faenza, 1963), 63-96). Ganshof’s views on the Carolingians have had a large influence on subsequent scholarship. For examples of works which depict the royal authority behind Charles the Bald’s capitularies as substantially weaker than Charlemagne’s, see Lot and Halphen, *Le règne*; Ganshof, *Recherches*; and Dieter Hägermann, “Zur Entstehung der Kapitularien,” in *Grundwissenschaften und Geschichte: Festschrift für Peter Acht*, ed. Waldemar Schlögl and Peter Herde (Kallmünz, 1976), 12-27. Hägermann argues that royal and noble cooperation were important in the rise of the Carolingian dynasty, but by Charles the Bald’s reign, the king had lost ground to the aristocracy.

<sup>24</sup> Much like the ‘weak’ view, the ‘strong’ position can describe a range of interpretations. The clearest articulation of this view is in the work of Janet Nelson. See Nelson, “Legislation,” 91-116; and Janet Nelson, “How Carolingians created consensus,” in *Le monde carolingien*, ed. W. Falkowski and Y. Sassier (Turnhout, 2009), 67-81. A number of recent works support her depiction of non-adversarial relations between king and nobility. See Matthew Innes, *State and Society in the Early Middle Ages: The Middle Rhine Valley, 400-1000* (Cambridge, 2000), 259-263; and Simon Maclean, *Kingship and Politics in the Late Ninth Century: Charles the Fat and*

The focus of historiographical debate has shifted over the last century, following larger historiographical arcs in medieval scholarship, but the stakes—the nature of Carolingian authority—have remained the same. My own historiographical analysis follows the thematic cues provided by the quotation from the *Annals of St.-Bertin*, with which I began this introduction. The mention of “the advice of his faithful men” alludes to consensus politics and implications of that for the decision-making process in the Carolingian administration. “Following the custom of his predecessors and forefathers” is an entry point into the complex blend of Roman and ‘Germanic’ law and custom at work behind the Carolingians’ conceptualizations of kingship and authority. Charles’ command “for [the *capitula*] to be observed as laws throughout his whole realm” has a number of possible implications. It requires an analysis of how the Edict would be promulgated, and understood, throughout his kingdom; how ‘law’ should be interpreted in this early medieval context; and, perhaps most importantly, to what extent we can say these decrees were actually carried out in the kingdom of West Francia.

Though the Edict of Pîtres provides a good starting point, the issues outlined above encompass the Carolingian capitulary as a document type. Scholars do not provide consistent answers across the chronological scope of the Carolingian dynasty; the historiographical tendency to see later Carolingians as relative failures as compared to the illustrious Charlemagne has colored interpretations of the capitulary evidence, though the

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*the end of the Carolingian Empire* (Cambridge, 2003), 11-22. See McKitterick, *Carolingians*, 25-37, for the argument that capitularies, as written documents, were functional parts of Carolingian administration, though her view of Charles’ relationship with the aristocracy is less positive than Nelson’s (see Rosamond McKitterick, *The Frankish Kingdoms under the Carolingians 751-987* (London, 1983), 182-188). See also Elisabeth Magnou-Nortier, *Foi et Fidélité: Recherches sur l’évolution des liens personnels chez les Francs du VIIe au IXe siècle* (Toulouse, 1975), 85-118, who see an emerging principle of contractual monarchy in Charles’ capitularies, but a principle which Charles himself takes an active part in shaping.

last twenty-five years have seen a broad reassessment.<sup>25</sup> My analysis seeks to outline the broad strokes of scholarly opinion on the capitularies, as well as the implications for those opinions on Charles the Bald, the authority behind the Edict. I will follow this with a more focused look at the historical context of the Edict itself, a document which emerged from a period of strife and uncertainty in Charles' reign. The introductory material provides the necessary background information for the main body of this text: a translation of the Charles the Bald's 864 Edict of Pîtres. A grounding in the historiographical debate and in the context of the Edict's creation should add a level of depth to the reader's understanding of the document and its role in our interpretation of Carolingian royal authority.

## The Capitulary and Carolingian legislation

Establishing a concise, effective definition of what constitutes a capitulary is a difficult proposition. Scholars tend to default to a list of roles the capitulary, as a document, filled. There are a number of reasons for this lack of precision. On the surface level, a capitulary refers to a text divided into *capitula*, or chapters. This format can be used for a wide variety of purposes and is really a description of form, rather than function. On a more substantive

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<sup>25</sup> The present study will address the narrative of decline and its recent revision in more detail below. For examples of scholarship emphasizing decline, see Lot and Halphen, *Le règne*; Dümmler, *Geschichte* vols. 1-2; and Jan Dhondt, *Études sur la naissance des principautés territoriales en France (IXe-Xe siècle)* (Bruges, 1948). The common argument for development of a 'feudal' system at the end of the early medieval period usually began the narrative of fragmentation of centralized power in the ninth century, with Charles the Bald's Capitulary of Quierzy (877) often identified as a key point in the deconstruction of royal authority (MGH, *Cap.*, II, no. 281, pg. 355-361). For examples of 'feudal' narrative, see Marc Bloch, *Feudal Society* (London, 1962) and F.L. Ganshof, *Feudalism*, 2nd ed. (New York, 1961), originally published as *Qu'est-ce que la féodalité* (Bruxelles, 1944). For examples of the reassessment of later Carolingians, see Nelson, *Charles*; Goldberg, *Louis*; Peter Godman and Roger Collins, ed., *Charlemagne's Heir: New Perspectives on the Reign of Louis the Pious (814-840)* (Oxford: Clarendon Press, 1990); and Maclean, *Kingship*.

level, we have to deal with ambiguity caused by the modern creation of an artificially rigid category projected on a rather fluid type of document.<sup>26</sup>

There were a number of contemporary collections of Carolingian capitularies; the Edict of Pîtres makes frequent reference to collections of Charlemagne and Louis the Pious' *capitula*. However, it is misleading to try to delineate this type of document in too specific or dogmatic a fashion. Capitularies were tools used for a variety of purposes. Ganshof's categorization of the capitulary, to which I will return in greater detail, outlines distinct sets of documents produced in different contexts for different purposes.<sup>27</sup> The key quality he identifies throughout the capitulary genre, linking together the disparate purposes for which the capitularies were used, is the decree's emanation from royal or imperial power. Though the conceptualizations of royal authority have shifted—Ganshof's view of absolute royal command has been tempered over the last fifty years, largely due to a more nuanced understanding of consensus politics—royal authority is still accepted as the key to the creation and promulgation of the capitulary. With that in mind, I will provide an attempt at a more comprehensive definition, as well as a description of the capitulary's place in wider Carolingian legislative framework.

Capitularies are our most direct evidence of royal intentions in written form from the Carolingian period. They outlined administrative issues; they ordered the implementation of law; they acted as royal testaments; they provided instructions to *missi* (royal agents); and they

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<sup>26</sup> Ganshof's classifications of "documents assimilables aux capitulaires" (*Recherches*, 11-12) and *capitula mixta* (*Recherches*, 16) indicate the level of flexibility he needed when adapting categories used by Boretius in the MGH editions of the capitularies.

<sup>27</sup> Ganshof, *Recherches*, 11. He criticizes the *Monumenta Germaniae Historica*'s inclusion of a number of documents that do not fit this parameter (*Recherches* 11-12). The call for a new critical edition of the capitularies is nearly ubiquitous in the scholarly works on the subject.



prescribed measures for specific problems across the kingdom.<sup>28</sup> Their topics encompassed both the lay and ecclesiastical spheres. By the middle of the ninth century, the assembly seems to have been the primary engine of capitulary creation, though meetings between the royal sons of Louis the Pious often spawned capitularies, as well.<sup>29</sup> Charles the Bald sent out a number of capitularies to his *missi* after meeting with either Lothar or Louis the German. The Edict of Pitres (864), perhaps the most wide-ranging piece of legislation from the Carolingian period, attests to the multitude of uses of the capitulary.<sup>30</sup> In a single document, it affirms the status of immunities on land given out by the royal family, sets out the procedure for prosecuting and punishing those who take advantage of the chaos created by

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<sup>28</sup> The *missus* (pl. *missi*), literally ‘one who has been sent’, was an integral part in royal administration of the kingdom/empire. A Carolingian king would appoint men to act as his agents in all regions of his kingdom, and they would convey his will to his subjects. For a discussion of *missi* and their place in the infrastructure of Carolingian administration, see Karl Ferdinand Werner, “Missus-marchio-comes: Entre l’administration centrale et l’administration locale de l’empire carolingien,” in *Histoire comparée de l’administration (IVe-XVIIIe siècle)*, eds. Werner Paravicini and Karl Ferdinand Werner, Beihefte der Francia 9 (Munich, 1980), 191-239.

<sup>29</sup> See the section on assemblies below for a more comprehensive look at this practice. For Charlemagne’s reign, the process seems substantially different. McKitterick calculates that we can only tie 4% of capitularies to collective decisions at assemblies (Rosamond McKitterick, *Charlemagne: The Formation of a European Identity* (Cambridge, 2008), 230. See Christina Pössel, “Authors and recipients of Carolingian capitularies, 779-829,” in *Texts and Identities in the Early Middle Ages*, ed. Richard Corradini, Rob Meens, Christina Pössel, and Philip Shaw (Vienna, 2006), 255-259, for more on this assessment. The growing importance of the assembly was likely precipitated by Charlemagne himself, who began to rely more heavily on assemblies, capitularies, and *missi* to maintain communications throughout his kingdom as Carolingian territory expanded throughout his reign (See McKitterick, *Charlemagne*, 214-291). The changing role of the assembly and the capitulary throughout the Carolingian dynasty is in need of a more thorough study, without the presumptions of decline that color earlier works, such as Ganshof’s *Recherches*.

<sup>30</sup> In applying the term ‘legislation’ to the capitularies, I am aware of the work of two scholars who have problematized this usage. Pössel, “Authors and Recipients,” 255-256, argues that the insistence on classifying capitularies as legislation has reified an unsubstantiated connection with the assembly in scholars’ minds. Once divorced from the assembly, capitularies cannot be considered legislation. McKitterick, *Charlemagne*, 229-230, drawing from Pössel, presents a similar argument. Pössel contends that scholars who consider capitularies to be legislation are projecting an anachronistic concept of ‘legislation’ onto a medieval construct which cannot support it. She does not, however, show that the scholars guilty of such anachronism are universally employing the same premise for ‘legislation’ which she applies: that legislation must emerge from a legislating assembly. With her attempt to apply this to medieval legislation as an essential part of its definition, she seems to be projecting an anachronistic aspect of modern terminology onto an early medieval concept. She successfully shows that Charlemagne’s capitularies did not have to emerge from an assembly, but she does not explain why that disqualifies the capitulary as ‘legislation’. For a wider definition of law and legislation in the early medieval period than Pössel allows in her analysis, see Susan Reynolds, “Medieval Law,” in *The Medieval World*, ed. Peter Linehan and Janet Nelson (London, 2001), 486-489. Beyond this point, Pössel and McKitterick’s argument is less applicable for Charles the Bald’s reign (and neither has tried to apply it directly to this later period), when the ties between assembly and capitulary are generally more secure (see note 92).

Viking attacks, lays out a systematic coinage reform for West Francia, proscribes provision of war materiel to the Vikings, orders a survey of available military manpower for the entire kingdom, regulates the alienation of land, legislates on refugees from Viking-ravaged territory, and outlines the requirements of its own promulgation.<sup>31</sup> As these examples show, capitularies tended to address specific issues, sometimes even those specific to a particular region within the kingdom; they do not represent a codified or comprehensive system of law.

Considering the broad usage the capitulary had, it is useful to categorize the documents that fall within that umbrella term. As one comes to expect with capitularies, the categories applied by modern scholars are often too rigid to contain the actual documents, but the venture is still useful. Boretius, an editor of the capitularies in the *Monumenta Germaniae Historica* (MGH), first laid out a systematic division of different capitulary types; Ganshof then adopted it with a few alterations.<sup>32</sup> The inspiration for the categorizations has some basis in contemporary sources.<sup>33</sup> Ganshof distinguishes between ecclesiastical capitularies (*capitula ecclesiastica* or *ad ordinem ecclesiasticum pertinentia*) and lay capitularies (*capitula ad mundanam pertinentia legem*). He further divides the capitularies of non-ecclesiastical content into three groups. *Capitula legibus addenda* either added to or modified laws (*leges*), *capitula per se scribenda* made declarations which existed on their own (separate from any existing law), such as prescribing measures for a current situation, and *capitula missorum* contained instructions to royal (or imperial) *missi*, agents of the ruler. While these groupings are employed by scholars

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<sup>31</sup> See MGH, Cap., II, no. 273, pg. 310-328, particularly c. 5, cc. 6-7, cc. 8-24, c. 25, c. 27, c. 30, c. 31, and c. 36.

<sup>32</sup> See the titles and editorial descriptions of the capitularies in the first volume of the MGH edition, *Capitularia regum Francorum* I, ed. A Boretius (Hanover 1883), for Boretius' classifications, and Ganshof, *Recherches*, 11-18, for Ganshof's adaptations.

<sup>33</sup> For example, the ecclesiastical/lay dichotomy was employed by Ansegisus in his collection from 827 (Ansegisus, *Capitularia, Praefatio*, ed. Gerhard Schmitz, MGH Capit. Nova Series I (Hannover, 1996), pg. 433).

in an attempt to provide some order to the body of capitularies, in practice they often defy such easily definable categorizations.

Ganshof includes a group in his system to contain particularly difficult-to-define documents: mixed capitularies (*capitula mixta*). Mixed capitularies might be addressed to *missi*, but also make proclamations about some pending situation in the *regnum* or modify some aspect of a standing law. Ganshof also creates a category for capitularies particularly for the former Lombard kingdom in Italy.<sup>34</sup> Along with these formal groupings, Ganshof added the category of “documents equivalent to the capitularies” to encompass texts included by in the MGH collection, but not necessarily related to the decisions of a general assembly.<sup>35</sup> Such categories aid in modern scholars’ analyses of the various uses a capitulary could have, but one must be careful not to turn rough headings into reified forms. The documents themselves resist such modern efforts, as shown by the need for Ganshof’s miscellaneous and catch-all categories.

#### Continued use of capitularies after promulgation

The forms in which capitularies have been preserved in various times and places can tell us something of their use and their perceived relation to other types of legislation. Collections of select capitularies were useful for officials administering law in various parts of the kingdom; the collections seem to have been made on private initiative, oriented toward the regional needs of a particular official. The different regional demands, based on applicability of particular capitularies to a given area, the type of ‘national law’ in use, and,

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<sup>34</sup> Ganshof, *Recherches*, 13-16.

<sup>35</sup> Ganshof, *Recherches*, 11-12. This included documents that shed light on other aspects of the assembly or administrative processes, such as assembly agendas or checklists for participants. See Hubert Mordek, “Recently Discovered Capitulary Texts,” in *Charlemagne’s Heir*, eds. Peter Godman and Roger Collins (Oxford: Clarendon Press, 1990), 437-453, for an example of this type of document from Louis the Pious’ reign.

likely, the legacy of the Roman legal tradition and the associated status of written law, resulted in the need for those officials to have a variety of different material within reach.

Practical administrative usage was not the only reason for contemporary manuscript collections. They could act also as school texts on law, and they appear in ecclesiastical legal texts (which combine canon and lay legislation).<sup>36</sup> The variety of purposes for the collections resulted in a mixture of very different types of documents preserved together within manuscript collections. Capitularies could be side-by-side with *leges*, letters, *vitae*, and ecclesiastical tracts in a wide variety of codices.<sup>37</sup>

One collection of capitularies came to take on a more official character, though its origins are disputed. In 827, Ansegisus, abbot of St.-Wandrille, put together 26 capitularies issued between 768 and 827.<sup>38</sup> Within two years, Louis the Pious was referring to this collection in his own capitularies. It is normally asserted that Ansegisus collected whatever capitularies he could find—a rather powerful statement on the availability of Carolingian legislation at the time, since his collection represents barely a quarter of the over a hundred capitularies known to have been issued in that fifty-nine year timespan.<sup>39</sup> Ansegisus is often believed to have worked on the collection as a private enterprise, but McKitterick has suggested “a more formal initiative”. She argues that the inclusion of the texts might not have been based on as haphazard a criterion as availability, but rather represented a reasoned decision on what the Carolingians would require for their future judicial and legislative

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<sup>36</sup> McKitterick, *Carolingians*, 45-47.

<sup>37</sup> For discussions of these collections, with some specific examples, see Nelson, “Legislation,” 94-96; McKitterick, *Carolingians*, 45-60; Rosamond McKitterick “Some Carolingian law-books and their function,” in *Books, Scribes and Learning in the Frankish Kingdoms, 6th-9th Centuries* (Aldershot, 1994), 13-27; Hubert Mordek, “Karolingische Kapitularien,” in *Überlieferung und Geltung normativer Texte des frühen und hohen Mittelalters*, ed. H. Mordek (Sigmaringen, 1986), 37-40; and Patrick Wormald, “*Lex Scripta* and *Verbum Regis*: Legislation and Germanic Kingship, from Euric to Cnut,” in *Early Medieval Kingship*, ed. P.H. Sawyer and N. Wood (Leeds, 1977), 120-121.

<sup>38</sup> MGH, *Cap. Nova*, Ansegisus, *Collectio Capitularium*, ed. Gerhard Schmitz (Hannover, 1996), 430-664.

<sup>39</sup> Mordek, “Kapitularien”, 37.

needs. Her evidence is circumstantial—namely, that Carolingians themselves relied heavily on Ansegisus’ work, and that his choice of capitularies to preserve could have been based on a different set of criteria than modern historians have when examining the documents.<sup>40</sup> She notes that Ansegisus spent much of his career at court, so he likely had access to the palace archive, and that the ecclesiastical/lay organization he adopts in his collection had been used previously by Louis the Pious in his capitularies.<sup>41</sup> His collection could very well have been a reflection of the needs of the king.

In other words, we cannot assume Ansegisus’ choices were limited by availability simply because we would have chosen different capitularies to include in the collection. If nothing else, the preservation and availability of the capitularies gathered by Ansegisus is an argument for their perceived importance up to the time of his collection. As mentioned, Louis the Pious began referencing the collection shortly after it was completed, and Charles the Bald used it regularly in his capitularies from 853 to 873.<sup>42</sup> The collection survives in over 75 manuscripts.<sup>43</sup> Whatever its origins, it seems that Ansegisus’ collection was adopted as an official reference guide. The use of the collection also indicates a Carolingian desire to maintain consistency in legislation. McKitterick’s explanation of a systematic selection process by Ansegisus is convincing. A wide distribution of copies of the capitularies considered important by contemporaries would have provided a sound basis from which later capitularies could draw.

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<sup>40</sup> McKitterick, *Carolingians*, 35.

<sup>41</sup> McKitterick, *Frankish Kingdoms*, 126.

<sup>42</sup> Janet Nelson, “Literacy in the Carolingian Government,” in *The Uses of Literacy in Early Mediaeval Europe*, ed. Rosamond McKitterick (Cambridge, 1990), 288. The capitularies cited the specific book and *capitulum* from the collection. The Edict of Pîtres was no exception; it cites Ansegisus twenty four times. See the discussion of the Edict below.

<sup>43</sup> See Mordek, *Bibliotheca*, 1100-1101, for a listing of the manuscripts. The use of direct references to this collection within the Edict of Pîtres reflects both the variability presented in the manuscript tradition, and the possibilities for scribal error. There are a number of citations to book and *capitulum* from Ansegisus’ *capitula* that do not reflect the organization of the MGH edition of his collection.

### Lex and legislation

The varying contexts of the capitulary manuscripts show the flexibility of the document type, and of the Frankish concept of legislation as a whole. Depending on what role a particular capitulary filled, it could act as an order to a royal official, an administrative rule, or a piece of legislation. This last possibility is complex, because the Frankish legislative system was not well defined and presents something of a quagmire to an unsuspecting modern student of the period. Law (*lex*) could have a variety of definitions. The Edict of Pîtres contains references to *lex* in a number of contexts.<sup>44</sup> *Lex* can refer to the abstract set of rules governing behavior, either that which was enforced by God or that which was put in place by human leaders. It can also refer to specific legal codes, with their application based on the territory or ethnic identity of an individual. Hincmar gives us a glimpse at the rough edges of the system in his description of judges: “when they hope for profit of some kind, they invoke [customary] law, but when they reckon there’s no advantage to be had there, they seek refuge in capitularies: thus it comes about that neither capitularies nor law are properly observed”.<sup>45</sup> The different types of law did not always fit together neatly, leaving room for officials to take advantage in their judgments.<sup>46</sup>

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<sup>44</sup> See MGH, Cap., II, no. 273, pg. 310-328. C. 2 references human and divine law, as general concepts. C. 3 references each having a law according to his own *ordo*, which seems to mean both class and people, in this sense. There are a number of references to custom (*consuetudo*). See cc. 4, 20, 23, and 37 for examples.

<sup>45</sup> “*Quando enim sperant aliquid lucrari, ad legem se convertunt: quando vero per legem non aestimant acquirere, ad capitula confugiunt: sicque interdum fit, ut nec capitula pleniter conserventur, sed pro nibilo habeantur, nec lex*”. Hincmar, *Ad Episcopos Regni*, ch. 15, *Patrologia Latina*, ed. J.P. Migne, vol. 125, col. 1016. I take the translation from Janet Nelson, “Dispute Settlement in Carolingian West Francia,” in *The Settlement of Disputes in Early Medieval Europe*, ed. W. Davies and P. Fouracre (Cambridge: Cambridge University Press, 1986), 63, who translates *lex* as ‘customary law’ in this context.

<sup>46</sup> Jennifer Davis, “Charlemagne’s delegation of judicial responsibilities,” in *The Long Morning of Medieval Europe: New Directions in Early Medieval Studies*, ed. Jennifer Davis and Michael McCormick (Aldershot, 2008), 240-241, has noted that the evidence on Carolingian administration, particularly that related to the administering of justice, does not address areas where responsibilities of various officials overlap, such as courts held by counts and *missi*. Essentially, a number of officials (both counts, *missi*, and their various subordinates) within the government framework seemed to have the same judicial functions, without a clear enunciation of

The nearest things to the modern conception of law were the codified systems of the various Germanic peoples of post-Roman Europe.<sup>47</sup> Frankish practice dictated that all had the right to be judged according to their ‘own’ law, the law of their people, a practice known as the ‘personality of law’.<sup>48</sup> By the time Charlemagne had pushed the empire to its furthest expanse, he had created a rather large legal tent. People within his realm could be judged according to Roman law, Salic law, Saxon law, and Bavarian law, to name a few. The Edict of Pîtres reaffirms this, but its reference to Roman law does not fit this mold. There are a number of references to punishments or procedures that apply if one were subject to Roman law, but the Edict departs from the use of personal law in this application. Instead, it refers to regions, rather than groups of people, that are subject to Roman law, transforming it into a form of territorial law.<sup>49</sup> While Roman law had been codified extensively, the other codes’ written forms were much less comprehensive.

The Germanic codes, written in the successor kingdoms after the dissolution of Roman power, display varying degrees of Roman influence, though all owe something to the legal culture of Rome.<sup>50</sup> An obvious practical reason for the creation of written versions of these

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how overlaps in their jurisdictions were to be resolved. This makes it difficult for modern historians to resolve “who actually did what on a daily basis” (241).

<sup>47</sup> I include here that which was referred to as ‘Roman law’, which was applicable in parts of Charles the Bald’s kingdom and is referenced in a number of *capitula* within the Edict of Pîtres. The Roman law code mentioned was likely the *Lex Romana Visigothorum*, also known as the *Breviarium Alarici*, though we have no positive proof of its official acknowledgement under the Carolingians. See McKitterick, “Carolingian Law-books,” 14-15, and Jean Gaudemet, *Le Bréviaire d’Alaric et les Épitomés* (Milan, 1965).

<sup>48</sup> F.L. Ganshof, “The institutional framework of the Frankish Monarchy: a survey of its general characteristics,” in *The Carolingians and the Frankish Monarchy*, trans. Janet Sondheimer (Ithaca, NY: Cornell University Press, 1971), 91-92, originally published as “Les traits généraux du système d’institutions de la monarchie franque,” *Il passaggio dell’ Antiquità al Medioevo in occidente*, SSCI IX (Spoleto, 1962). This plurality of ‘national laws’ is demonstrated evocatively by Agobard of Lyons, who says that there could occur “frequently” (*plerumque*) a meeting of five men in the territory of the Frankish kings in which none of them would have a law in common with any of the others (*nullus eorum communem legem cum altero habeat*). See MGH, *Leges*, III, 504.

<sup>49</sup> MGH, *Cap.*, II, no. 273, pg. 310-328. See cc. 13, 16, 20, 23, 28, 31, and 34. See Ganshof, *Droit romain*, 31, for mention of this transformation.

<sup>50</sup> See Ernst Levy, *West Roman Vulgar Law: The Law of Property* (reprint Philadelphia, 2003) (originally published in 1951), 14-17, for a discussion of the relation of Germanic codes to Roman vulgar law. For other

laws was the situation in the successor kingdoms. They had Romans and other peoples living together in an area that was accustomed to the application of written law from the imperial period. This use would have continued under the Carolingians, as they had an even wider variety of peoples under their judicial and legislative control.

Wormald argues that the form of the law codes does not entirely support this reasoning. Omissions—Wormald offers the *Lex Salica's* silence on basic marital issues, such as dowry or inheritance, as an example—suggest that the content of the code does not match the practical demands of legal practice.<sup>51</sup> He proposes, instead, a more symbolic role for the legal codes. The original codifications were influenced by Romans, who were accustomed to looking to their ruler as a purveyor of judgment.<sup>52</sup> Though the codes could have been of some use in the successor kingdoms, aiding mediation of disputes between Roman and non-Roman subjects, a system of written law also functioned as a step toward fulfilling the Roman definition of a civilized people. Pursuing the Roman preoccupation with written forms of law would have been appealing both to Romans living within the successor kingdoms and to kings who wished to cloak themselves in Roman practice. This process left the stamp of Roman vulgar law on the ‘Germanic’ law codes.<sup>53</sup> The association of law and Roman civilization extended far beyond the survival of any Roman bureaucracy. Charlemagne, exalted by Einhard as a codifier of laws, was likely responsible for the

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examples of Roman influence and continuity into the early medieval period, see the works of Walter Goffart and his student, Alexander Murray. Goffart has focused especially on the survivals of certain aspects of tax and military service from the late Roman empire. See Walter Goffart, “Frankish military duty and the fate of Roman taxation,” *Early Medieval Europe* vol. 16 no. 2 (2008), 166-190. For Murray’s work on the Merovingians, see Alexander Murray, “From Roman to Frankish Gaul: *centenarii* and *centenae* in the Administration of the Merovingian Kingdom,” *Traditio* 44 (1988), 59-100; and Alexander Murray, ““*Pax* and *disciplina*”: Roman Public Law and the Merovingian State,” in *Proceedings of the Tenth International Congress of Medieval Canon Law*, ed. K. Pennington, et al. (Vatican, 2001), 269–85.

<sup>51</sup> Wormald, “*Lex scripta*,” 113.

<sup>52</sup> Wormald, “*Lex scripta*,” 126.

<sup>53</sup> For a comprehensive discussion of Roman vulgar law, see Levy, *West Roman Vulgar Law*.



codification of a number of ‘national’ laws, as well as the creation of a newly-organized version of the *Lex Salica*.<sup>54</sup> His interest, according to Einhard, intensified after he was crowned emperor in 800. The creation of written law was an imperial preoccupation; this was likely an example of Carolingian *imitatio imperii*.<sup>55</sup>

Though Wormald is correct in attributing a symbolic value to the promulgation of *leges*, manuscript evidence shows that the legislation served more practical purposes, as well. Despite the flaws apparent in the codes if approached as a holistic system of law, manuscript collections show that the codes actually were used by administrators and royal officials in the Carolingian period.<sup>56</sup> McKitterick has analyzed manuscripts of a number of Carolingian law-books and found evidence of real use by those officials applying the law throughout the empire. Law-books often revealed particular interests, both in content and notation, in the practical application of a certain subset of laws, or that which applied to a particular area.

One manuscript McKitterick describes displays heavy notation in sections relevant to administration of justice by a government official, as well as notation in parts of the codex pertaining to Roman law. This indicates the manuscript collection was owned by an official whose area of jurisdiction contained a population largely under Roman law.<sup>57</sup> Considering the paucity of official texts issued by the royal chancery, the very existence of these law-

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<sup>54</sup> For a discussion of the manuscript tradition of the *Lex Salica*, see McKitterick, *Carolingians*, 40-60.

<sup>55</sup> See Wormald, “*Lex scripta*”, 125-130.

<sup>56</sup> McKitterick, “Carolingian Law-books,” 13-27. Formulae have seen a similar historiographical arc. Nineteenth-century German scholars relied heavily on them in their legal and institutional analyses (see Brunner, *Deutsche I*, pg. 575-588). The document type fell out of favor in the second half of the twentieth century, due largely to the lack of contextual information in the collections, especially as compared to charters. A number of scholars have begun revisiting the usefulness of formulae in the last decade. Building off the work on literacy done by Rosamond McKitterick and others (see section on literacy below), historians such as Alice Rio and Warren Brown are looking at the practical usages of formulae in the early medieval period, and the implications of that usage for our understanding of early medieval law and property. See Alice Rio, *Legal Practice and the Written Word in the Early Middle Ages: Frankish Formulae, c. 500-1000* (Cambridge, 2009), with a historiographical intro on pg. 1-5; and Warren Brown, “When documents are destroyed or lost: lay people and archives in the early Middle Ages,” *Early Medieval Europe* 11, no. 4 (2002): 337-366.

<sup>57</sup> McKitterick, “Carolingian Law-books,” 19-21. The collection also contained a number of Germanic law codes, but they did not have any added notation.

books implies a need for practical knowledge of the laws throughout the Carolingian empire.<sup>58</sup> Royal promulgation of law, even if the law was not comprehensive and was not regularly cited in local courts, still projected royal power. Both the kings who filled the void left by Rome and, later, the Carolingians were claiming their right to make an official set of laws for their subjects.

This still does not address the full range of law that governed the lives of inhabitants of the Carolingian empire. The codes, particularly Salic and Roman law in the kingdom of Charles the Bald, likely represented actual practiced law, but they have many gaps. Customary law, the dark matter of the Carolingian legal universe, fills those gaps. Customary law was the set of traditions and rules that regulated social interaction and settlement dispute on a daily basis.<sup>59</sup> It could vary from locality to locality, since much of it was preserved by collective memory and oral tradition, but it was likely very similar across much of the Carolingian empire, due to the similar cultural norms which informed it.

Customary law is not a totally distinct entity from the written law codes of the period. Law codes could have a clear influence on the practice of law and dispute settlement, though the relationship between the codes and legal practice is complex, as this section is intended to show. However, the codes were just one of a number of influences on the legal processes of a locality. Capitularies were another. The principle aspects of customary law—local

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<sup>58</sup> McKitterick, “Carolingian law-books,” 26-27.

<sup>59</sup> The study of customary law in the early middle ages has grown rapidly since the 1980s, particularly among Anglophone scholars. Characteristic of this trend is the increased interest in the question of how law was actually practiced, eschewing the primary interrogation of law codes and other prescriptive sources (the foundations of the *Rechtsschule* analysis, addressed in the ‘consensus’ section below) for charters and other evidence of dispute resolution. This approach often includes the use of anthropological models in the investigation of dispute settlement. See Wendy Davies and Paul Fouracre, eds., *The Settlement of Disputes in Early Medieval Europe* (Cambridge, 1986); and Warren Brown, *Unjust Seizure: Conflict, Interest, and Authority in an Early Medieval Society* (Ithaca, 2001). Rio, *Legal Practice*, 198-211, also examines the divergence of written law and legal practice. She characterizes written law under the Franks as often more of a flexible guide to dispute settlement than a rigid code.

practice, communal norms, and collective settlement—are yet another, and their usage makes analysis of the system much more difficult for modern historians.

Both the weakness and the strength of the study of customary law lie in our body of evidence. Since it is unwritten, we have no systematic code preserved. We must start with the law in practice, as shown by charters and narrative sources, rather than prescriptive documents like capitularies or the *leges*.<sup>60</sup> Scholars using this evidence can take a bottom-up approach by reconstructing the practice of law from descriptive documents, and thus avoid some of the pitfalls of working with prescriptive texts. In an analysis of customary law in practice in West Francia, Nelson has identified local influence as a key component of this system. The king might have a *missus* present at a local court, in some cases, and counts were to hold their own judicial proceedings (the *mallus*) in their regions of administrative control. Despite the links to the center through royal agents and officials, disputes were usually resolved locally, and local influence would be the determining factor in the process.<sup>61</sup> Nelson also notes the importance of collective judgment in dispute settlement, a feature of local custom that foreshadows the discussion of consensus on a larger stage, below.<sup>62</sup>

The predominance of customary law poses a problem for royal authority. Royal orders were more effective if carried out in a kingdom with a consolidated system of law. Customary law implies some amount of local mutability, as well as a basis in established understandings of precedent and collective acceptability. The fuzzy outlines of unwritten law would not be as accessible to change administered through the decrees of a centralized power. If the majority of the rules that governed life in the Carolingian empire were out of the hands of the king, what power did he hold over the different localities within his

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<sup>60</sup> For an example of this approach, see Nelson, “Dispute Settlement,” 45-64.

<sup>61</sup> Nelson, “Dispute settlement”, 61-63.

<sup>62</sup> Nelson, “Dispute settlement”, 58-59.

kingdom? The form of the capitulary answers that question. Capitularies acted as interventions in the system. They could do a great many things, depending on the requirements of the situation. They could adapt the *lex*, either written or customary, to fit contemporary context and needs.<sup>63</sup> They could deal with extraordinary situations, which were not addressed satisfactorily by more ordinary means.<sup>64</sup> The capitularies could regulate the requirements of military service, a profoundly important resource for the king.<sup>65</sup> They represented the king's ability to reach down into the local level when he found it necessary. Capitularies connected the center to the local, a task of utmost importance to the continued power of the Carolingian ruler.<sup>66</sup>

### Usage as a source

Given the prescriptive nature of the capitulary and the difficulty in defining its role as a legislative document, it is not surprising that scholars have interpreted the category of the texts in such different ways. As with so much of the textual evidence from the early medieval period, scholars often must spend as much time addressing how they can use the documents as they can actually engaging with the subject matter. When so little documentation survives, relative to later periods (and significant sections of antiquity), what we have must be

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<sup>63</sup> See MGH, Cap., II, no. 273, pg. 327-328, c. 37 for Charles' adaptation of labor service for his construction of a fortified bridge at Pitres.

<sup>64</sup> See MGH, Cap., II, no. 273, pg. 323-324, c. 31 for Charles' regulation of refugees from Viking-ravaged territory.

<sup>65</sup> In the Edict of Pitres, see MGH, Cap., II, no. 273, pg. 321-322, cc. 26-27. For the collection of *tributum*, which Charles paid to the Viking in order to avoid military confrontation, he also used a capitulary in 877 to order exactions, in the form of tax collected specifically for that purpose, on his subjects (MGH, Cap., II, no. 280, pg. 353-354). For discussion of the use of *tributum*, see Simon Coupland, "The Frankish Tribute Payments to the Vikings and Their Consequences," *Francia*, vol. 26 no. 1 (1999), 57-75; and Einar Joranson, *The Danegeld in France* (Rock Island, IL: Augustana, 1923).

<sup>66</sup> Pössel, "Authors and recipients," 259-265, for a discussion of dissemination of capitularies to appropriate audiences in localities.

questioned closely. This is particularly true due to the paucity of ‘original’ versions of texts<sup>67</sup> and the role of ecclesiastical institutions as the preservers of the overwhelming majority of material. The sample bias and the context of preservation are important factors in use of the sources, especially time-conditioned texts.

The capitularies invite their own set of problems. They were used across the reigns of Carolingian kings in very different circumstances, while sharing very similar forms and vocabulary. A lack of supporting documentation often makes it difficult to verify the effects of the decrees throughout the kingdom. The variety of documents that have been grouped under the heading of ‘capitulary’ by modern scholars includes some texts that were likely time-conditioned, such as discussion notes and agendas.<sup>68</sup> Each scholar must decide how to address these issues, and their decision has a large impact on their analysis of their subject matter, as the examples in this section show.

Until the last few decades, the historiography reflected a narrative of decline in centralized authority under post-Charlemagne Carolingian rule. This was informed by a teleological tendency to look for the roots of central medieval feudalism in the later years of the Carolingian dynasty. In this narrative, the apex of royal control, Charlemagne, gave way to its nadir in the aristocratic free-for-all of early feudalism. One scholar has claimed that in capitularies after Charlemagne’s reign, we hear not the command “of an imperious master, but the voice of preachers.”<sup>69</sup> The capitularies of Charlemagne, Louis the Pious, and Charles

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<sup>67</sup> The term ‘original’ itself is not always a useful term, particularly for the capitularies. See my observations regarding Mordek’s work in this section, below.

<sup>68</sup> See Mordek, “Recently Discovered,” 437-453, for discussion of one such example from Louis the Pious’ reign. Also, the Capitulary of Quierzy (877), as it is preserved in the MGH (MGH *Capit.*, II, no. 281, pg. 355-361), has a question and response format that reveals the deliberative aspect of the assembly.

<sup>69</sup> Robert Latouche, *The Birth of Western Economy: Economic Aspects of the Dark Ages*, trans. E.M. Wilkinson (Abingdon, Oxon, 2006), originally published as *Les Origines de l’Economie Occidentale* (Paris, 1956), 145. Latouche refers to an increasingly “turgid” form of the capitularies, and argues that the document type slid into obsolescence in the later ninth century.

the Bald, though often very similar in form, were interpreted very differently by scholars, based on preconceptions of each king's authority. This is not surprising, given the nature of the capitulary as a royal decree backed by royal authority. Since Charles the Bald was seen as a much weaker king than Charlemagne, the capitulary must have been a shadow of its former self. Historians, such as Ganshof, saw Charles' edicts as either ineffective or diluted by a change in the balance of power between the king and his nobles.<sup>70</sup> The capitularies should be placed in their political context, but there is a danger to devaluing our best pieces of evidence of royal action by allowing assumptions of decline dictate interpretations of an entire category of documents. The problem is particularly evident for the later Carolingians, who ruled in the long shadow of Charlemagne. The examples below reflect general approaches to the capitularies, as well as historians' changing views on royal authority of the Carolingian dynasty.

Delbrück's volume on the history of medieval warfare provides a good starting point, as he represents the most radically pessimistic end of the spectrum. He attributes little power to the royal office in Charles the Bald's time and doubts the potency of royal decrees. He considers some of the Edict of Pîtres' references to older capitularies, such as the organization of levies, to be a relic of antique formulas, with no real force.<sup>71</sup> Even in the capitularies of Charlemagne, specific requirements for military service from the population were "administrative flourishes", terminology which outlasted reality for generations after the fact.<sup>72</sup> Delbrück argues against relying on capitulary evidence under any Carolingian, but he sees Charles' contributions, in particular, as anachronistic misrepresentations of his administration.

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<sup>70</sup> See Ganshof, *Recherches*, 34-37.

<sup>71</sup> Delbrück, *Medieval*, 34-35.

<sup>72</sup> Delbrück, *Medieval*, 21.

Delbrück managed to provoke both immediate and long-term controversy with his skeptical approach.<sup>73</sup> In a review article, Erben attacks Delbrück's denigration of explicit source evidence. He seeks to salvage the capitularies as a form of evidence, since Delbrück relegates them to the status of empty administrative formula.<sup>74</sup> One of the more significant issues that Erben attacks is Delbrück's refutation of a 'peasant army' created by the general levy, as outlined in a number of capitularies. Erben accepts the capitularies' call for levies of troops from the general population, thereby rejecting Delbrück's description of a small, elite cavalry force as the basis of the army. Erben's comments are aimed primarily at the height of Carolingian power, under Charlemagne, and he admits that Charles the Bald's capitularies might contain some anachronistic references to prior practice.<sup>75</sup> The capitularies can be useful, then, but really only under Charlemagne, when the system worked as it should.

Technical understanding of the capitularies grew through the middle of the twentieth century. The most influential Carolingianist in modern scholarship, Ganshof produced the foundational work on the capitularies,<sup>76</sup> and his work on those documents, and the Carolingian administration, in general, is still of great importance to the current understanding of the period. His efforts brought together a great deal of evidence for the use of the written word in Carolingian administration, though he himself undermined his own depiction of a complex legal infrastructure. Capitularies, according to Ganshof, were an effort to give the royal administration some stability and consistency. He argues, however,

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<sup>73</sup> For a more recent critique of Delbrück's chronic distrust of sources, particularly regarding medieval demography and military manpower, see Bernard Bachrach, "Early Medieval Military Demography: Some Observations on the Methods of Hans Delbrück," in *The Circle of War in the Middle Ages*, ed. Donald Kagay and L. J. Andrew Villalon (Suffolk: Boydell Publishers, 1999), 3-20.

<sup>74</sup> Wilhelm Erben, "Zur Geschichte des karolingischen Kriegswesens," *Historische Zeitschrift* (1908): 331.

<sup>75</sup> Erben, "Zur Geschichte," 330-336.

<sup>76</sup> See Ganshof, *Recherches*.

that it is “doubtful to the extreme” that the written instructions were implemented fully.<sup>77</sup>

The Carolingian government strove for, but ultimately failed to attain, a workable administrative institution. Ganshof identifies the word of the king as the source of the authority, so the capitulary itself was just a means of conveyance.<sup>78</sup>

For Charles the Bald, in particular, Ganshof identifies a growing need for ‘consensus’ in the legislative process, a sign of weakened royal position. Power accorded to the nobility through the need for consensus was authority leeching from the crown. While not only an affliction of Charles the Bald, Charlemagne’s grandson remains the prime example of this weakening, due to his proximity to the ‘more effective’ Carolingians and the relative abundance of capitulary material from his reign.<sup>79</sup> Ganshof’s work on the written word under the Carolingians provides the basis for more recent work on the capitularies, specifically, and the use of written documents in administration, more generally. It has been noted that despite the impressive body of evidence compiled by Ganshof for the use of the written word by the king and his agents, he consistently undermined the importance of these documents in his estimations of the actual running of the kingdom without providing a clear reasoning for why he did so.<sup>80</sup>

Further study on the manuscripts of the capitularies has been fundamental to our evolving understanding of the document type. The critical editions of the *Monumenta Germaniae Historica* (MGH) are vital resources for the study of the early medieval period. The

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<sup>77</sup> Ganshof, “Institutional framework,” 101-102. For more on Ganshof’s view on administrative use of written documents, see F.L. Ganshof, “The use of the written word in Charlemagne’s administration,” in *The Carolingians and the Frankish Monarchy*, trans. Janet Sondheimer (Ithaca, NY: Cornell University Press, 1971), 125-142, originally published as “Charlemagne et l’usage de l’écrit en matière administrative,” *Le Moyen Age* LVII (1951), 1-25.

<sup>78</sup> Wormald, “*Lex Scripta*,” 123-124, mirrors this analysis in his study of the various Germanic *leges*.

<sup>79</sup> Ganshof, *Recherches*, 34-37.

<sup>80</sup> McKitterick, *Carolingians*, 26-27.



compilation of documents from manuscripts, and the subsequent editing, was done by a number of nineteenth- and early twentieth-century scholars of the German *Rechtsschule*. The work of Alfred Boretius and his successors, Victor Krause and Albert Werminghoff, the editors of the MGH edition of the capitularies (*Capitularia Regum Francorum*), is invaluable, but its usefulness is limited by a lack of information about the manuscript collections with which they worked. Hubert Mordek has published a comprehensive analysis of the extant manuscripts of Frankish royal capitularies, laying the groundwork for future study on the nature of the transmission of these texts after their promulgation.<sup>81</sup> He provides descriptions of the forms of the capitularies in each manuscript and accounts of the other texts included with them, making available crucial information about the context of a capitulary's preservation.

Mordek's work on the manuscript collections has also addressed why no 'original' manuscripts or official copies dating from Charles' yearly assemblies survive. He reexamines what constituted what we now consider an 'original' capitulary manuscript. Since the royal chancery was likely unable to keep up with the demand for copies,<sup>82</sup> individual participants in need of capitulary texts would bypass the delayed (and far from certain) issuing of an official text and write their own rendition of the assembly's decisions.<sup>83</sup> Mordek argues that this explains the wide variety of forms for extant capitulary texts.<sup>84</sup> As a functional record of a royal decree, those in charge of promulgating the royal will (counts, *missi*, bishops) would create their own copy of that decree. That copy's details would not necessarily match the

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<sup>81</sup> Mordek, *Bibliotheca*.

<sup>82</sup> Mordek, "Kapitularien," 32-35. This is referenced in c. 36 in the Edict of Pîtres, which enlists the chanceries of the bishops to make copies for counts, royal vassals, and others who need access to the capitularies (MGH, Cap., II, no. 273, pg. 327).

<sup>83</sup> In Charlemagne's time, one could substitute "king's proclamation" for "assembly's decisions", in such cases. See note 92.

<sup>84</sup> Mordek, "Kapitularien," 32-35.

‘official’ version, created by the royal chancery, since a particular official might only find certain aspects of the decree relevant to his position or regional office.

Mordek also identified a supposed relationship between the strength of the ruler and the form of the capitulary. The greater the authority of a king, “the more informal he could make his capitularies”. He argues that Charlemagne could make his capitularies’ style relatively fluid, while Louis the Pious and Charles the Bald made their own edicts more and more complex and rigid in their written presentation.<sup>85</sup> This seems to be a solution looking for a problem; there are other explanations for a change in format. One is the simple maturation of the document type. As it became a mainstay of Carolingian administration, its style became more elaborate and formulaic. By Charles the Bald’s reign, the king had decades of prior examples of capitularies from which to draw—a resource he clearly used, as seen by the dozens of references to prior capitularies in the Edict of Pîtres alone.<sup>86</sup> Additionally, for Charles’, a higher degree of literacy could have enabled more elaborate capitularies. I will return to the issue of literacy below, but Latin literacy in Romance-speaking West Francia would have been significantly higher than in the eastern areas of the empire.<sup>87</sup>

The narrative of decline following Charlemagne’s reign has been challenged by a host of scholars over the past several decades.<sup>88</sup> Nelson’s work projects a distinctly positive view of the Charles the Bald, and she gives capitularies a more complicated role than earlier scholars. She argues that specific, regional problems were often met with royal decrees in the capitularies, possibly confusing historians’ use of the documents as indicative of more

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<sup>85</sup> Mordek, “Kapitularien”, 36.

<sup>86</sup> See note 222.

<sup>87</sup> McKitterick, *Carolingians*, 21-22. Louis the German, who ruled over a largely Germanic-speaking population, does not seem to have issued any capitularies (Goldberg, *Louis*, 210-211).

<sup>88</sup> See Nelson, *Charles*; Goldberg, *Louis*; Godman and Collins, eds., *Charlemagne’s Heir*; and Maclean, *Kingship*. These examples highlight the continued vitality of later Carolingian kingship.

general West Frankish issues. One such example is peasant migration due to pressure from Viking attacks, a problem which would have primarily affected areas in the lower Seine and Loire valleys. Given the context of capitularies' generation, in assemblies consisting of nobles and clergy from across the kingdom, it is unsurprising minor or personal issues are found alongside important problems of realm-wide significance. They reflect the agenda of an assembly, so "collective deliberations and decision-making could translate private concerns and grievances into public law".<sup>89</sup> Her approach, like Mordek's, elucidates the form of the capitulary document. It also serves to weave the document more firmly into the social fabric of West Francia. In her estimation, the capitulary was not only an effective tool of the king, it was also a record of sometimes ephemeral social and political issues facing the king's subjects at the time of a particular assembly.

Just as capitularies reflect the regional and local politics of the kingdom, local sources can inform the activities and goals of those at the center. Innes has challenged the centrality of the capitulary as the means to understanding the Carolingian state. He argues that reconstructions of Carolingian rule from the capitularies are flawed, because they send scholars searching for an institutional framework that did not exist. Ganshof's verdict on the failure of the Carolingian government rested on his assumption that they were attempting something resembling the modern state, but Innes argues that model does not fit the period.<sup>90</sup> Instead, he looks to local documentation, such as charters, as well as narrative sources and letters. Through these, he analyzes both the links between the center and the local, and those who mediated those relationships. Instead of assessing royal and aristocratic power in opposition to one another, he places both in the context of control of localities.

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<sup>89</sup> Nelson, "Legislation," 98-100. See 100 for quote.

<sup>90</sup> Innes, *State and Society*, 4-7.

Both king and noble participated in a system to hold power at the local level throughout the Carolingian empire.<sup>91</sup> Though Innes sidesteps capitulary evidence in an effort to reapproach early medieval politics and shift the current paradigm of the *status quaestionis*, his work on the relationship between the king and aristocracy is useful for the study of the assembly and consensus politics in the reign of Charles the Bald.

## How capitularies were formulated

Capitularies under Charles the Bald were often formulated through assemblies, gatherings of important lay and ecclesiastical men called by the king.<sup>92</sup> The mechanics of capitulary creation and the workings of the assembly itself are murky. The where, when, and even the why for these assemblies are often not in question, but the process through which a collection of powerful magnates, royal vassals, and the king himself produced edicts is a source of much historiographical contention. The debate usually centers on the concept of ‘consensus politics’ and what the various interpretations of the term imply for royal authority. The contentiousness is due mainly to a paucity of evidence on assemblies as a category in early and central medieval politics.

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<sup>91</sup> Innes, *State and Society*, 259-263.

<sup>92</sup> The connection between the assemblies and the creation of capitularies is fairly firm for the reign of Charles the Bald. Links between capitularies and assemblies can be established for many of his decrees, but the connection becomes particularly evident after 860. The *AB* records assemblies (often the semi-annual assembly structure outlined in this section, below) for most years from 861 to the end of Charles’ reign in 877 (See Nelson, “Legislation,” 103, and 115-116, connecting *AB* entries to capitularies). We have Hincmar to thank for this increased recording of the royal calendar, probably due both to his connection to the court and his documented interest in the assembly process. He took over the writing of the *AB* from Prudentius in 861 (Nelson, intro to *AB*, 9-13). This connection between assembly and capitulary is more contentious for Charlemagne. See McKitterick, *Charlemagne*, 230-231, and Pössel, “Authors and recipients”, 255-259, for the argument that the production of most of Charlemagne’s capitularies cannot be tied to an assembly. Though Pössel argues that scholars should not assume capitularies were created in an assembly, she does suggest that some of those capitularies which were produced outside the assembly were likely still promulgated through the attendance of bishops, counts, and *missi* at these gatherings (“Authors and recipients,” 263-264).

I will focus my analysis on particulars of Carolingian assemblies, rather than those specific to Charles the Bald's rule, because distinctions on periods within the dynasty tend to rely on scholarly assumptions about the character of particular kings' reigns, rather than explicit evidence. At times, however, I will bring in discussion from work on the assemblies as a general medieval category, in an attempt to fill out the rather sketchy picture we have of the practice.<sup>93</sup> Before addressing the modern argument, we will look at the best source we have for the Carolingian assembly process: the treatise on good government, *De ordine palatii*.<sup>94</sup>

Given the lack of certainty about its subject matter, it is perhaps unsurprising that scholars have contended over a number of important issues about *De ordine palatii*. These issues range from its authorship to the core of its content. The text I will be drawing from was compiled by Hincmar of Rheims, an archbishop and an important figure in West Francia. Two documents are known by the title *De ordine palatii*. The first, Hincmar's, was originally titled *Admonitio*, but has gone by its current name since the sixteenth century.<sup>95</sup> The second is attributed to Adalhard of Corbie, an advisor to Charlemagne and the source Hincmar cites for much of his work. There is no extant copy of Adalhard's version, excepting what can be drawn from Hincmar's text. Hincmar of Rheims composed his *De ordine palatii* for Charles the Bald's grandson Carloman in 882, a few years after Charles' death, as a treatise on good government and the proper running of the royal household. There is not a consensus among scholars on how much of this text can be taken as

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<sup>93</sup> See Timothy Reuter, "Assembly politics in Western Europe from the Eighth Century to the Twelfth," in *The Medieval World*, ed. Peter Linehan and Janet Nelson (London, 2001), 432-450, for a discussion of assemblies from the eighth to the twelfth century as a coherent category.

<sup>94</sup> Hincmar, *De Ordine palatii*, ed. T. Gross and R. Schieffer, MGH, *Fontis iuris Germanici antiqui in usum scholarum separatim editi* (Hanover, 1980), 31-99. Any translations included here are my own.

<sup>95</sup> Nelson, *Charles*, 43.

descriptive of the actual workings of Carolingian administration (and, if it is descriptive, for what period), but Hincmar clearly thought it an important resource for later Carolingian rulers.<sup>96</sup>

A general consensus among current historians identifies Adalhard as the author, though the particular date for his authorship is still not clear.<sup>97</sup> I will, however, discuss the possible implications of either man's creation of the text, as it is useful for getting at Hincmar's possible reasons for writing/using the text under the later Carolingians. In any case, the matter is not settled, given the lack of an extant version of Adalhard's own text. The authorial question arises from Hincmar's attribution of his source. Bachrach, following continental scholarship, accepts Hincmar's own assertion that he borrowed from Adalhard.<sup>98</sup> Hincmar claims authorship for the opening chapters and for the conclusion, but the rest he cites as the work of the earlier writer. Nelson originally argued that Hincmar's attribution to Adalhard, as an advisor to the model Carolingian king, was an attempt to give the tract added authority.<sup>99</sup> The text was actually of Hincmar's own creation, and it reflected a

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<sup>96</sup> Nelson (*Charles*, 43-50) has argued that this is not only prescriptive, but can be taken as a description of Charles the Bald's government. Though she has changed her position on the original authorship (see Janet Nelson, "Aachen as a place of power," in *Topographies of Power in the Early Middle Ages*, ed. Mayke de Jong and Frans Theuvs (Leiden, 2001), 226-232), her argument against Adalhard's connection to the text is not new. See Louis Halphen, "*De ordine palatii* d'Hincmar," *Revue historique* 183 (1938), 1-9, reprinted in Louis Halphen, *A travers l'histoire du moyen âge* (Paris, 1950), 83-91). Bachrach, "Adalhard," 3-34, counters this argument, instead following continental scholarship and identifying much of Hincmar's text as cited from Adalhard. This would indicate that it describes (or prescribes for) the period of the early Carolingians, rather than Charles the Bald. His endnotes provide extensive bibliographical references on interpretations of the text. For other scholars favoring Adalhard's authorship, see McKitterick, *Charlemagne*, 142-155; and Brigitte Kasten, *Adalhard von Corbie: Die Biographie eines karolingischen Politikers und Kloostervorstehers* (Düsseldorf, 1986), 72-84.

<sup>97</sup> For discussion of possible dates, see Kasten, *Adalhard*, 79; and Nelson, "Aachen," 226-232.

<sup>98</sup> Bachrach, "Adalhard," 23-24.

<sup>99</sup> Nelson, *Charles*, 43. She has since reversed her position. See Nelson, "Aachen," 226-232, for her argument for Adalhard's authorship, as mentioned in note 96. She now argues that Hincmar "revised and augmented" the earlier work, but that the core text was written by Adalhard (226).

“prescription for effective rulership”.<sup>100</sup> However, it drew from his experience with the reality of Carolingian politics in the reign of Charles the Bald.

What is at stake for the purposes of this discussion, in practical terms, is how much of the document is prescription, versus description, and the period which it describes, or for which it prescribes. If it is a copy of Adalhard, as Bachrach argues, then it refers to the period of the early Carolingians. If it is truly Hincmar’s own work, then it was conceived from experience under Charles the Bald. Nelson’s original position implies a more positive picture for politics under Charles the Bald, as it shows the workings of the royal household and the wider politics of the assembly as a continuation from Charlemagne’s time.

Bachrach’s position, though not detrimental to this view, highlights a striving among the later Carolingians toward the model of Charlemagne. This is certainly true, but removing the large sections of *De ordine palatii* from Hincmar’s oeuvre removes the document as a source for the continuation of the system under Charles the Bald. Hincmar could simply be presenting Carloman with a model based on Charlemagne, as presented by a contemporary of the emperor. It becomes more difficult—or at the least, less necessary—to make Hincmar’s own experience under Charles the Bald a key part of the text’s creation.

Despite the uncertainty about the text, it is still useful in our context. Hincmar, a man deeply involved in Carolingian politics throughout the middle of the ninth century, saw the descriptions of the assembly as useful for a young ruler.<sup>101</sup> While presumably the sections on the royal household could have been beneficial as a prescriptive treatment of the idealized court that Hincmar hoped Carloman would create, the assembly process was not fully under royal control, especially if one is looking at the situation under a young Carolingian ruler late

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<sup>100</sup> Nelson, *Charles*, 49.

<sup>101</sup> On Hincmar, see Jean Devisse, *Hincmar, archevêque de Reims, 845-882* 3 vols. (Geneva, 1975-1976).

in the ninth century.<sup>102</sup> Presenting the king with an account of the assembly that did not resemble reality would have little benefit, since a deterioration of the described process would not likely represent a change beneficial to the king. It is possible, given the youth of his intended audience, that Hincmar was attempting to project his own idealized version of the assembly process on an impressionable young ruler.<sup>103</sup> Again, this would require the young king to have a great deal of control over the assembly process, if Hincmar hoped his prescription could affect some change—an unlikely situation in 882. At the very least, Hincmar’s account, or an account he deemed useful enough to reproduce, would have resembled the real-world situation closely enough to be of some use to Carloman. I will present Hincmar’s version of the assembly, followed by a discussion of the aspects that are most often challenged by modern scholars.

Hincmar<sup>104</sup> described the assembly as the means through which “the status of the whole realm was seen to be maintained”.<sup>105</sup> Two assemblies were held each year, one in the winter and the next the following summer. Reuter has stressed the implications of this calendar for medieval politics. The assembly schedule meant that royal government occurred in “spurts”, rather than continuously.<sup>106</sup> Reuter’s description is useful, though exaggerated. Charles still

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<sup>102</sup> Carloman was 15 or 16 in 882. See Paul Edward Dutton, “Beyond the Topos of Senescence: The Political Problems of Aged Carolingian Rulers,” in *Aging and the Aged in Medieval Europe*, ed. Michael McMahon Sheehan (Toronto, 1990), 92.

<sup>103</sup> See Janet Nelson, “Kingship, Law and Liturgy in the Political Thought of Hincmar of Rheims,” *The English Historical Review* Vol. 92 No. 363 (April 1977), 241-279, for a discussion of Hincmar’s views on the legal limitations of Christian kingship. She argues that Hincmar believed that the king was subject to “the same clear juristic limitations as the bishop’s [office]” (279), and that he advocated public gatherings of the king with the lay and ecclesiastical *potentes* as a means of harnessing the efforts of all toward the preservation of the law, which he believed to be the primary means of regulating relations among the most powerful men in the kingdom.

<sup>104</sup> I will address Hincmar as the author, for the purpose of readability and because he composed/redacted the text as we have it today.

<sup>105</sup> Hincmar, *De Ordine palatii*, c. 29.

<sup>106</sup> Reuter, “Assembly politics”, 433. He also identifies a few official royal gatherings that revolved around the liturgical calendar, namely Christmas, Easter, and Whitsun (434-435).



governed in the time between these assemblies; charters were issued throughout year,<sup>107</sup> and Charles' meetings with his fellow Carolingians could happen at anytime in the calendar.<sup>108</sup>

Written communication between king and subjects, combined with letters between patrons at court with their dependents, show that the business of government was not confined to a few major assemblies.<sup>109</sup> Reuter's identification of government in "spurts" could reflect the semi-itineracy of Carolingian kingship.<sup>110</sup> Government was focused on the gathering of people around the king, but this gathering was not limited to the two assemblies described in the winter/summer format. Wherever the king was, he would either summon his subjects, or those who had business with him would come to his court.

The first assembly mentioned by Hincmar was a smaller gathering attended by the most powerful magnates and the king's councilors. They made decisions on issues they felt likely to be of the greatest import the following year and effectively set the agenda for the summer assembly. Their focus was often military.<sup>111</sup> The participants of this gathering were held to

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<sup>107</sup> See the range of issuance dates on Charles' charters in *Recueil des Actes de Charles II le Chauve, roi de France*, ed. G. Tessier, 3 vols. (Paris, 1943-55).

<sup>108</sup> For example, Charles, Louis the German, and Lothar met at Meerssen in February of 847 (MGH, Cap., II, no. 204, pg. 68-71). Lothar and Charles met in February 854 at Liège. See MGH, Cap., II, no. 207, pg. 74-76; and *AB* 854, pg. 78.

<sup>109</sup> See McKitterick, *Charlemagne*, 218-222, for letters sent by the king; and Innes, *State and Society*, 85-93, for a discussion of patronage (with evidence from Einhard's letters). For a specific example, see letters 43 and 48, in Lupus, *The Letters of Lupus of Ferrières*, ed. and trans. Graydon Regenos (The Hague, 1966). In these letters, Lupus, abbot of Ferrières, asks Hincmar, who had recently been made archbishop, to use his new position to influence Charles the Bald on Lupus' behalf. Lupus also appeals directly to Charles himself in letter 49, written to the king. Correspondence such as this emphasizes the importance of the written word for connections to the center, as well as the usefulness of relationships with people at court.

<sup>110</sup> By semi-itineracy, I am contrasting the Carolingian habits against the more frequent movements of Ottonian itineracy. For Ottonian and Salian practices, see John Bernhardt, *Itinerant Kingship and Royal Monasteries in Early Medieval Germany, c. 936-1075* (Cambridge, 1993). For a critique of traditional interpretations of Charlemagne's itineracy, see McKitterick, *Charlemagne*, 177-213. She argues that charter issuance cannot necessarily be used as evidence for Charlemagne's movement.

<sup>111</sup> Though Hincmar speaks generally, Charles' winter assemblies would likely have been dominated by discussion of his relationships with his brothers. Charles faced many threats in his reign, but his family posed the largest problem over the years. The Vikings, his other consistent enemy, were more difficult enemies to plan strategy for far in advance, due to their roles as raiders and their great mobility. Charles did adopt a more proactive defense in the 860s and 870s, building fortified bridges and other physical infrastructure. These

secrecy, so their decisions could not be hindered or diverted before the next stage in the assembly process.<sup>112</sup>

The summer, or general, assembly was a much larger affair, involving all the important men (*generalitas universorum maiorum*) of the realm, both lay and ecclesiastical. The more powerful (*seniores*) were expected to participate in the decision-making process, while the less powerful (*minores*) were there to hear the decisions and occasionally contribute.<sup>113</sup> The purpose of the assembly was to attain the ‘counsel and consensus’ (*consilium et consensus*) of the important men in the kingdom for the king’s decisions. The *seniores* would deliberate amongst themselves on the agenda set by the king in the form of *capitula*, which were a series of issues laid out in the form of separate chapters.<sup>114</sup> Some of the *capitula* would be related to things discussed in the winter meeting, including decisions the king had made or relevant information he had gathered in the interim. This process could involve both churchmen and lay aristocrats, depending on the nature of the issue. They could consult with the king on problems or questions arising from the *capitula*. They then met again with the king, and the decisions were presented to the gathering as a whole. They were confirmed by the assembly and went into effect.<sup>115</sup> Charles’ capitularies, including the Edict of Pîtres, emerge from this deliberative process.

It is worth noting that Hincmar’s description is far from comprehensive. He does not address how deadlocks were resolved or how it was decided to pass decisions to the larger gathering for deliberation. For that matter, he does not make clear how the different levels

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would have been likely topics of discussion at the winter gatherings, given the logistical requirements of such undertakings.

<sup>112</sup> Hincmar, *De Ordine palatii*, cc. 30-31.

<sup>113</sup> Hincmar, *De Ordine palatii*, c. 29.

<sup>114</sup> For a discussion of a document likely related to this process, see Mordek, “Recently discovered,” 437-453.

<sup>115</sup> Hincmar, *De Ordine palatii*, cc. 29, 34, 35.

of assembly participation (*seniores, minores, caeterum*) were allotted.<sup>116</sup> Hincmar's emphasis is on royal power, which is not surprising; after all, the king summoned his subjects to the assembly, and his decisions were the centerpiece. However, the king did not hold absolute power, and the assembly was not merely an audience to royal decisions. The gaps in our knowledge of the process perhaps reflect not only that—a gap, or missing information—but also a certain informality and plasticity in the practice.<sup>117</sup>

The general assembly had a variety of other uses, besides joint deliberation. An early medieval king relied on personal relationships with his subjects, and the assembly provided an opportunity to interact with people from across the realm. He could maintain relations with the subjects through which he extracted the resources to rule his kingdom, and he could gather information on the condition and temper of the various parts of that kingdom. The assembly could also act as a judicial court, as reflected in the Edict of Pîtres.<sup>118</sup> Attendance at the assembly was both an obligation and an opportunity for the king's followers.<sup>119</sup> Travel was difficult and expensive. The assembly could act as a muster for the army, so attendance could equate to military service for some. Hincmar highlights twice the expectation of gift-giving to the king. This extended to everyone at the assembly: *seniores*,

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<sup>116</sup> Though there was a great deal of social differentiation in Frankish society, the edges of various social groups (at least, among free men) were likely blurred. More rigid class lines and established social definitions of 'nobility' emerged in the central medieval period, but they were not as evident in the Carolingian age. See note 6 on Frankish nobility.

<sup>117</sup> See P.S. Barnwell, introduction to *Political Assemblies in the Earlier Middle Ages*, ed. P.S. Barnwell and Marco Mostert (Turnhout, 2003), 1-10, for a general discussion of the flexibility of the assembly in a variety of early medieval contexts.

<sup>118</sup> MGH, Cap., II, no. 273, supp. c. 2, pg. 328. The *AB* relates a particular important judicial hearing at Pîtres that year. Pippin II, nephew of Charles and a longtime rival for the kingship of Aquitaine, had been captured that year. He was presented to the assembly at Pîtres, charged with treason and apostasy, and sentenced to death. See *AB* 864, pg. 119.

<sup>119</sup> Nelson, *Charles*, 63. A number of Lupus of Ferrieres' letters reflect the weight of obligation one could feel at a summons. See Lupus' letters 15, 41, and 45, in Lupus, *Letters*, for a sense of the effort required to respond to a summons and the logistical implications of attendance at an assembly or muster. See Nelson, "Legislation", pg. 100 n. 45, for a fuller citation of Lupus' mentions of attendance at assemblies.

*minores*, and ‘the rest’ (*caeterum*).<sup>120</sup> An annual ‘gift’ presented at a regular time to the king is not unlike a tax, though it is not clear what the magnitude of the gift was or how its size or nature was decided upon.<sup>121</sup> The burdens of service and gift-giving, however, could be offset by the benefits of interaction with the king and his court. As Hincmar mentions, the king could gather information on problems throughout his kingdom.<sup>122</sup> Men could hope to have their own problems addressed or their disputes arbitrated. The powerful could benefit from *Königsnähe*, or closeness to the king. Power and position for nobles, beyond entrenched local positions and holdings, was usually reliant on royal patronage and support.<sup>123</sup> The assembly was an obvious place for this interaction to take place.

Where the assemblies themselves would take place varied from year to year. The Carolingian court was itinerant; its movements were based on a combination of political and military necessity and logistical requirements. For the former, the king might decide to hold an assembly near where he planned to campaign, since the simultaneous role of assembly as army muster would place his forces near their theater of conflict. Political or administrative requirements could influence his decision, as well. Charles the Bald held the assembly that generated the Edict of Pîtres in 864 near the location he planned to build a fortified bridge. Several of the Edict’s *capitula* referenced this planned construction and the labor service from his subjects he needed to complete it.<sup>124</sup> Charles tended to hold assemblies in the heartland

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<sup>120</sup> Hincmar, *De Ordine palatii*, cc. 29, 35. The 864 entry in the *AB*, describing the assembly at Pîtres that year, mentions “the annual gifts” received by the king (118).

<sup>121</sup> There are a number of passages in the *AB* that refer to what seem to be assemblies as Charles receiving his “annual gifts”. See *AB* 864 (pg. 118), 868 (pg. 151), and 874 (pg. 185), for examples. See Nelson, *Charles*, 49–50, for a discussion of this. She suggests the king decided what form the gift would take. This seems likely for the magnates, though a customary gift is possible for those of lower station attending the assembly.

<sup>122</sup> Hincmar, *De Ordine palatii*, c. 36.

<sup>123</sup> See Nelson, *Charles*, 56, for a brief description of *Königsnähe*. See Airlie, “Aristocracy,” for an analysis of the hierarchical connection of the nobility to the king.

<sup>124</sup> MGH, *Cap.*, II, no. 273, cc. 27, 29, and 37.

of West Francia, often on sites along the Oise or Seine.<sup>125</sup> Pîtres itself is located near the Seine; four assemblies were held there in the 860s.<sup>126</sup>

Who attended the assemblies would have depended on the location and the focus of the proceedings, and it is difficult to make a proximate guess for even relatively well-documented gatherings.<sup>127</sup> Named individuals in some texts would not have represented the full attendance of the assembly, but they can give some idea of the scope of major figures present. A capitulary acting as instructions to *missi* named forty-three individuals in 853. It dates to November of that year, which shows that the formula of summer capitulary issuance provided by Hincmar was not a rigid one. It also indicates the smaller winter gatherings could be large.<sup>128</sup> If dozens of *maiores* could be present for a winter assembly, it is likely even more *minores* and other, less powerful individuals could be expected on site for a summer gathering. When the general assembly acted as an army muster, the numbers present on site could have been quite large, though this does not mean that all in attendance could have expected to participate in the assembly in any official political capacity.

The question of why the king would be interested in bringing together an assembly of anyone but the most important *maiores* in the realm deserves some exploration. If the king wished to gather the army, their presence makes sense in that capacity. He would also use

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<sup>125</sup> Nelson, “Legislation”, 102, and Carlsruh Brühl, *Fodrum, Gistum, Servitium Regis* (Cologne, 1968), 40 nn. 145-147. Charles would move between various palaces, *civitates*, and monasteries in Francia, centers of power and influence that also had the means to support his court (Brühl, *Fodrum*, 40).

<sup>126</sup> We only have three capitularies that attest to assemblies at Pîtres (862, 864, 869), but the *AB* mentions Charles “received the annual gifts there” in 868, as well, which implies the holding of an assembly (*AB* 868, pg. 151). For the capitularies, see MGH, Cap., II, no. 272, pg. 302-310 (862), MGH, Cap., II, no. 273, pg. 310-328 (864), and MGH, Cap., II, no. 275, pg. 332-337 (869). Nelson lists a fifth assembly possibly held there in 866 (Nelson, “Legislation,” 115), but the entry for the *AB* that year, which she cites, only refers to Charles going to Pîtres “with workmen and carts” to finish the fortifications (*AB* 866, pg. 131).

<sup>127</sup> Though Reuter’s definition of an assembly is looser than the type of gathering being defined here, he describes it as anytime the king would have a “substantial number of people” beyond his permanent entourage in attendance (“Assembly” 435).

<sup>128</sup> MGH, Cap., II, no. 260, pg. 270-276. See Nelson, “Legislation”, 100-101, for a discussion of assembly attendance.

the opportunity to collect both their annual gifts and any intelligence he could gather from the far corners of the realm. According to Hincmar, the *minores* and others occasionally contributed to decisions, but usually they would hear and confirm the results of the king and *maiores*' deliberation.<sup>129</sup> The assembly acted as a stage on which the political decision-making of the realm could be enacted for an audience of the king's subjects.

Hincmar provides two reasons why discussions and decisions from the smaller, winter assembly needed to be revisited at the general assembly. The first reason deals with the greater attendance—they would cover the same issue “for the satisfaction of the other *seniores*”.<sup>130</sup> The second reason reveals an interesting facet of medieval politics. The deliberations would be taken again “not only to soothe, but also to stir up the spirit of the people”.<sup>131</sup> This was a performance for the king's subjects.<sup>132</sup> The assembly was an opportunity to call for not only dutiful obedience to royal decisions, but also the enthusiastic participation in the promulgation and execution of the king's will. This is not to say the attendants could not play an active role—in fact, the king might have been advertising that he was working with his magnates—but the assembly was a powerful and personal means of communicating the royal will to his followers. Though the king, particularly by the reign of Charles the Bald, had the capability to send out written orders to his agents and had them disseminate decisions made at the smaller assembly, the general assembly was a more

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<sup>129</sup> Hincmar, *De Ordine palatii*, c. 29.

<sup>130</sup> Hincmar, *De Ordine palatii*, c. 30.

<sup>131</sup> Hincmar, *De Ordine palatii*, c. 30.

<sup>132</sup> The assemblies most likely had a basis in ritual that lent power to the proceedings, as well. In a discussion of the ties between ritual and power, Cannadine argues that “no approach which defines power narrowly and ignores spectacle and pageantry can possibly claim to be comprehensive” (David Cannadine, introduction to *Rituals of Royalty: Power and Ceremonial in Traditional Societies*, ed. David Cannadine and Simon Price (Cambridge, 1987), 19. The assembly could provide a stage for the spectacle of royal power.

dramatic, and presumably more effective, way of ensuring his decisions were carried out.<sup>133</sup>

Hincmar, a veteran of many assemblies, made clear the performative aspect of the assembly from the first sentence of his description, as cited above: through the general assembly “the status of the whole realm *was seen* to be maintained”<sup>134</sup> (emphasis mine). The king annually brought together powerful men from across the kingdom, and he showed them that he was acting in the interests of his subjects.<sup>135</sup>

Airlie explains how the use of the assembly as army muster extends the audience even further than the *minores*. He describes the reception of Pope Leo at Paderborn in 799, where Charlemagne had the army arrange itself in battle array to impress the pope. Their presence at the pope’s arrival, however, was not only for the pope’s benefit; the king’s followers were “spectators as well as actors”, who were targeted for the display of the king’s status and of his relationship with the pope.<sup>136</sup> The public demonstration of royal action was particularly important in the years after the death of Louis the Pious, when each Carolingian king did not have a monopoly on the aristocratic competition for royal favor. With multiple, legitimate

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<sup>133</sup> The Edict of Pîtres includes three supplementary *capitula* after the main body of the *edictum*. These three were intended to be read aloud at the assembly. The normal first and third person used in the body of the *edictum* is eschewed for the second person- Charles was speaking directly to those in attendance. See MGH, Cap., II, no. 273, supp. cc. 1-3. Nelson, “Consensus,” 73-75, argues that this section would have been read in the vernacular, an issue I will address in the sections on consensus and on literacy, below.

<sup>134</sup> Hincmar, *De Ordine palatii*, c. 29.

<sup>135</sup> See the work of Gerd Althoff for a discussion of the role of performance in medieval politics. “Colloquium familiare—colloquium secretum—colloquium publicum: Beratung im politischen Leben des früheren Mittelalters” (157-184) addresses the role of “secret” meetings in preparation for public assemblies. “Demonstration und Inszenierung: Spielregeln der Kommunikation in mittelalterlicher Öffentlichkeit” (229-257) stresses the need for stage-managed performances at public meetings, even while using the appearance of spontaneity. Both essays can be found in his collection Gerd Althoff, *Spielregeln der Politik im Mittelalter: Kommunikation in Frieden und Fehde* (Darmstadt: Primus Verlag, 1997). Nelson, “Consensus,” 70-72, also discusses the managing of assemblies, particularly practice of receiving foreign envoys at the gatherings as a means of creating a feeling of belonging among the attendants (Us-ness, or *Wir-gefühl*). The *AB* entry for 864 provides an example of this: Charles received tribute (*censum*) from Brittany at the gathering at Pîtres (pg. 118). See pg. 72 of the MGH edition for the Latin.

<sup>136</sup> Stuart Airlie, “Talking heads: Assemblies in Early Medieval Germany,” in *Political Assemblies in the Earlier Middle Ages*, ed. P.S. Barnwell and Marco Mostert (Turnhout, 2003), 34.

royal courts within the empire, the Carolingians were in competition amongst themselves for the loyalty of their followers.<sup>137</sup>

Charles the Bald also issued a number of capitularies after meetings with his brother kings. This represents a break from the process outlined here, but it still follows the logic of the practice of issuing decrees at assemblies. Charles would likely be attended by more supporters at these meetings and in the immediate aftermath than he usually had with him in his itinerant court. He seems to have used the opportunity afforded by the presence of his followers to consult with and issue orders to his *missi*, as several of the extant capitularies which date to the same time as the royal meetings are in the form of *capitularia missorum*, or instructions to his *missi*.<sup>138</sup> The content of his discussions with his brothers are reflected in his instructions.<sup>139</sup> Though not assemblies in the format described by Hincmar, they still represent some level of consultation resulting in royal decrees.

Narrative sources provide evidence of assemblies taking place. There were a variety of practical reasons for men of the kingdom to gather around the king, as described above. However, Hincmar's description of the deliberative process is based on a few key premises that have become flashpoints in historiographical debate. The most important of these are the nature of the capitularies themselves and how they reflect the authority of the king who issued them, which I have addressed in the sections above, as well as the basis for the creation of the capitularies- consensus politics.

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<sup>137</sup> For examples of the consequences of intra-Carolingian conflict, see the defection of Louis the Pious' supporters at the 'Field of Lies' in 833 (The Astronomer, *Vita Hludowici imperatoris*, ed. Ernst Tremp, MGH, *Scriptores rerum Germanicarum in usum scholarum separatim editi* (Hanover, 1995), ch. 48, pg. 474-476), and the invitation of Louis the German into West Francia by Charles the Bald's magnates in 858 (*AB* 858, pg. 88).

<sup>138</sup> See MGH, Cap., II, no. 260, pg. 270-276, issued after a meeting with Lothar (MGH, Cap., II, no. 206, pg. 75-76; and MGH, Cap., II, no. 270, pg. 297-301, issued after a meeting with Louis the German and Lothar II (MGH, Cap., II, no. 242, pg. 152-158).

<sup>139</sup> This is particularly clear in the capitulary issued after the peace summit in 860 (MGH, Cap., II, no. 270, pg. 297-301), following Louis the German's invasion of West Francia. Charles' capitulary addresses the terms of the peace and the implications for the members of the aristocracy who supported Louis' attempted coup.



## Historiography of ‘Consensus’

Consensus is a clear theme in the Edict of Pîtres. References to the “consensus and counsel of our *fideles*” appear in seven sections of the capitulary,<sup>140</sup> while more general references to consensus appear in four more *capitula*.<sup>141</sup> Though the Edict, addressing, as it does, a wide variety of issues and problems, invokes consensus a relatively large number of times, it is hardly alone in the Carolingian body of capitularies. The term is found in Charles’ other capitularies, as well as in those of his father and grandfather.<sup>142</sup> Despite the presence of the term across generations of royal decrees—or perhaps because of this cross-generational usage—the meaning of the term is not clear. How one defines the term in the context of the assembly can have major implications for one’s understanding of Carolingian politics and legislation, both capitulary and *lex*. The narrative of decline, apparent in the use of capitularies as a source, colors the historiography here, as well. Scholars often are hesitant to see the followers and subjects of Charlemagne play the same role in his decision-making as under Charles the Bald. An understanding of the context is key when defining this term, but we must be careful not to let presuppositions of royal strength or weakness affect the analysis of the aristocracy’s role in politics in ways not supported by the documentary evidence.

German historiography in the nineteenth and through the mid-twentieth centuries, particularly as represented by the *Rechtsschule*, took the language of consensus seriously.<sup>143</sup>

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<sup>140</sup> This comes in some form of the Latin phrasing “*cum consensu et consilio fidelium nostrorum*.” This phrase appears a total of nine times in following sections: *Adnuntiatio* 3, *Edictum* intro, cc. 6, 15, 25, 33, and 34 (MGH, Cap., II, no. 273, pg. 310-328).

<sup>141</sup> The term *consensus* is contained in cc. 2, 3, 6, and 7 (MGH, Cap., II, no. 273, pg. 310-328).

<sup>142</sup> For presence of the language of consensus in Charlemagne and Louis the Pious’ capitularies, see Nelson, “Legislation,” 108, with nn. 78-79 providing references to lists of particular documents.

<sup>143</sup> The genesis of the *Rechtsschule* is usually identified with Jakob Grimm, *Deutsche Rechtsaltertümer* (Göttingen, 1828). This school of thought encompassed some of the editors of the MGH. Their efforts to

Scholars of this tradition saw consensus politics as evidence of the Germanic roots of early medieval rulership. The concept of consensus, as reflected in the assembly process, involved two parties, from a very general standpoint: the king and his subjects. The *Rechtsschule* focused on the latter group, the people (*Volk*), whose consent was supposedly a necessary precondition for law-making.<sup>144</sup> The idea of the free German, inspired by Tacitus, left a powerful legacy on the interpretation of law from the early medieval period. It also reflects a broader tendency in scholarship to make clear distinctions between ‘Germanic’ and ‘Roman’ law, with an associated attempt to disentangle the influences of the two, supposedly distinct, traditions.<sup>145</sup> While the German historiographical approach provides some balance to the royal focus of French scholarship, it relies on a rather idealistic and unsupported appeal to the tribal egalitarianism of the ancient Germanic peoples.<sup>146</sup> The *Volksgesicht* represented a pan-German social and legal tradition, the application of which often effaced local or temporal variation in legal frameworks.<sup>147</sup> The *Rechtsschule* scholars put a great deal of emphasis on the law itself, as represented by the prescriptive forms of codified legislation.<sup>148</sup>

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collate and edit the legislative sources of the period align with their interests in the roots of a German constitutional tradition. Boretius, editor of the MGH volumes of capitularies (Alfred Boretius, ed., *Capitularia regum Francorum* I (Hanover, 1883)), is an example of this overlap. Heinrich Brunner, author of *Deutsche Rechtsgeschichte* 2 vols. (Leipzig, 1887-1892), is the most well-respected, widely-cited member of the *Rechtsschule*.

<sup>144</sup> This applied to the codified *leges*, rather than the capitularies. If the king wished to alter a *lex*, he needed the consent of the *Volk*. See Brunner, *Deutsche* I, 405-412, for a discussion of *Volkrecht* and *Königsrecht*. I will be citing the second edition of the first volume of Brunner’s *Deutsche Rechtsgeschichte* (Leipzig, 1906).

<sup>145</sup> For a discussion of the problems inherent in this attempt, see Reynolds, “Medieval Law,” 487.

<sup>146</sup> Though there is a clear difference in focus between Francophone and German scholarship, this was not a binary. German scholarship distinguished *Volkrecht* from *Königsrecht*, they just tended to give more weight to *Volkrecht* than their French counterparts. Capitularies were considered a clearer example of *Königsrecht* than a *lex* collection. For a discussion of historiographical treatment of *Königsrecht* and *Volkrecht*, see Wormald, 109-110; Ganshof, *Recherches* 30-37; and Jürgen Hannig, *Consensus Fidelium: Frühfeudale Interpretationen des Verhältnisses von Königtum und Adel am Beispiel des Frankenreiches* (Stuttgart, 1982), 13-17.

<sup>147</sup> See Brunner, *Deutsche* I, 33-40, for a discussion of the relations within the “*deutsche Volk*”, a construction that relied heavily on philology.

<sup>148</sup> In Patrick Wormald, introduction to *The Settlement of Disputes in Early Medieval Europe*, ed. Wendy Davies and Paul Fouracre (Cambridge, 1986), pg. 3 n. 6, Wormald points out that in Brunner’s discussion of legal procedure (*der Rechtsgang*) in his *Deutsche Rechtsgeschichte*, he cites charters (descriptive evidence) barely a hundred times, compared to the huge number of prescriptive sources referenced in the 1373 footnotes of the section.

Fustel de Coulanges represents a reaction to the *Rechtsschule's* search for the Germanic roots of early medieval authority.<sup>149</sup> He traces the institutions of the Franks to the Roman empire, and, in doing so, he shifts the focus of power away from the *Volk*.<sup>150</sup> It is not insignificant that Fustel finds fault with Tacitus' writings, given the ancient historian's prominence as an early describer of the German *Volk*. He dislikes the Roman author's tendency to moralize, as well as his attempt to provide psychological analysis, in his account of the early Germans, and Fustel argues that Tacitus gave precedence to style over accuracy of content.<sup>151</sup> He seeks to remove to the Frankish government from a strictly Germanic foundation, an attempt which also serves to undermine the *Rechtsschule's* arguments for importance of the *Volk* in consensus politics. French scholars continued to deviate from the German focus on constitutionalism in the twentieth century by making royal authority the primary target of analysis. Consensus, in this context, becomes a measuring stick for royal power, which is either absolute or shackled by aristocratic influence.

Ferdinand Lot and Louis Halphen identify a clear break between the power of the earlier Carolingians and Charles the Bald at the opening of Charles' reign. The empire was divided between the three sons of Louis the Pious by the treaty of Verdun in 843. The Frankish aristocracy was shaken by the civil war of the last three years. Charles had to establish himself in his western kingdom and secure his hold on a nobility that had two other Carolingian courts to which they could give their allegiance, if Charles did not prove

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(Wormald cites the 3rd edition of Brunner's work. See Heinrich Brunner, *Deutsche Rechtsgeschichte*, 3rd edn., vol. 2 (Berlin, 1961), 435-702.)

<sup>149</sup> See Fustel de Coulanges, "La Manière d'écrire l'Histoire en France et en Allemagne," *Revue des deux Mondes* September/October (1872): 241-251, for his assertion that German historiography is colored by nationalism.

<sup>150</sup> For example, he equates the Roman administrative *civitas* with the Frankish *comitatus*, and the Roman *comes* with the Merovingian *graf*. See Fustel de Coulanges, *La Monarchie Franque* (Paris, 1888), 196-216.

<sup>151</sup> Fustel de Coulanges, *L'invasion germanique et la fin de l'empire* (Paris, 1891), 240.

satisfactory. He met with the leading men of West Francia later that year at the *conventus* of Coulaines, where an agreement was made between king, lay nobles, and clergy.<sup>152</sup> Referred to in the final capitulum as a “compact of healing peace” (*foedus concordiae salubris*), the agreement laid out the parameters of the relationships between the three groups. Each group had an obligation to respect and maintain the *honor* of the others, with an emphasis on reciprocity.<sup>153</sup> Lot and Halphen saw this as Charles handing over the keys to the kingdom with his first decree, or as “monarchy descended from its throne”.<sup>154</sup> From this perspective, the reciprocity implied in consensus required the king to give over power to the nobility. Their tone matches that of scholarship for most of the twentieth century. Charles’ consensus became the tipping point for aristocratic power, and the ensuing decentralization would eventually result in feudal anarchy.

Ganshof continues the sharp division of the Carolingian usage of consensus. He sees the presence of the term *consensus* (and the verbal form, *consentire*) as a “problem” for the historian which can only be solved by a stark demarcation between Charlemagne and Louis the Pious on the one hand, and Louis’ sons on the other.<sup>155</sup> Consensus under Charlemagne and Louis the Pious was an obligation on the *potentes* who attended assemblies and other meetings with the king, not a right of acceptance or refusal. In this context, consensus was like the extraction of an oath from the aristocracy of the realm as a group. It functioned as a guarantee of obedience to royal commands. The nobility had no direct say in royal decision-making, though Ganshof argues that this framework resulted in a fragile state structure and a

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<sup>152</sup> MGH, Cap., II, no. 254, pg. 253-255. This is the first extant capitulary from the reign of Charles the Bald.

<sup>153</sup> See MGH, Cap., II, no. 254, cc. 1-4, pg. 255, particularly.

<sup>154</sup> Lot and Halphen, *Le règne*, 95-96.

<sup>155</sup> Ganshof, *Recherches*, 30-31

fertile ground for resistance from royal subjects.<sup>156</sup> A new order arose with the division of the empire in 843.<sup>157</sup> Despite no apparent change in usage of the term *consensus*, the context of civil war in the last decade of Louis' reign and in the opening years of his sons' changed the nature of the relationship between aristocracy and king, particularly in West Francia. The nobility could call the king to account, as seen at Coulaines in 843. *Consensus* no longer described their obligations toward the king, but rather the conditional nature of the Carolingian kingship.<sup>158</sup> Consensus, in this view, was not actually a means of political decision-making, but a shorthand for limitations on despotic royal power.

Hannig's work on consensus focuses on prescriptive documents and legal formulas, but it represents a clear break from both the royal focus of the French and the Germanic *Volkegeist* of the *Rechtsschule*. His definition of the consensus is contextual, but unlike Ganshof, he provides a more nuanced, *longue durée* analysis of the concept. This involves an examination not only of the legal terms in the documents themselves, but in their social and ideological context throughout the Merovingian and Carolingian periods. He traces the roots of consensus from late Roman, not Germanic, practice. Hannig argues that the emergence of attestations of consensus is due to a combination of new ideas on Christian kingship under the Carolingians, and a Carolingian need to justify their usurpation of the Merovingian throne in the mid-eighth century. The Christian aspect of kingship required first the clergy, and then the nobility, to be consulted in determining the course that best aligned with God's will. Consensus was thus an arrangement between king and nobility that could be used to the

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<sup>156</sup> Ganshof, *Recherches*, 31-34

<sup>157</sup> Ganshof, *Recherches*, 34, cites a change beginning in the second half of Louis the Pious' reign, but hinges the shift in his two-part analysis on the division at Verdun.

<sup>158</sup> Ganshof, *Recherches*, 34-37. He cites Hincmar's description of consensus as one of the sources of the capitularies' authority as proof of the shift in terminology and in political reality, though he does not address Hincmar's attribution of the text to the earlier Adalhard.

advantage of either side.<sup>159</sup> Capitularies, in Hannig's view, were ideological tools in the struggle for power between the ruler and the aristocracy, used either to push forward the expansion of royal power or to make aristocratic consensus a necessary condition of royal authority.<sup>160</sup>

This highlights a tendency, on both sides of the consensus debate, to see aristocratic and royal power as competitive. A powerful aristocracy implies a weak king, and vice versa. Nelson has outlined a more cooperative relationship between central and regional powers. Instead of portraying the aristocracy exclusively as undermining royal authority, Nelson describes their cooperation with their ruler in the business of governing the realm. They acted as "collaborators and agents of the king".<sup>161</sup> Her view accommodates a purer form of consensus, in which the desires of the aristocracy are clearly reflected in the decrees promulgated by the king. This pairs with her description of capitularies, provided above; the documents were a composite of the agendas and needs of powerful men from across the realm.

Consensus, however, was not simply achieved through discussion at assemblies. It was shaped and nurtured through the practices and rituals of the Frankish political system. Above all, it required both the desire for and reality of connectivity among the Frankish political class (i.e. those with power in the localities of the empire). Connections between

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<sup>159</sup> Hannig, *Consensus Fidelium*. For Charles the Bald's capitularies, in particular, see 195-199. For a discussion of consensus in the Roman context, see Clifford Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire* (Berkeley: University of California Press, 2000).

<sup>160</sup> Hannig, *Consensus Fidelium*, 164.

<sup>161</sup> Nelson, *Charles*, 42-48. See 48 for the quote. In Janet Nelson, "The intellectual in politics: context, content and authorship in the capitulary of Coulaines, November 843," in *Intellectual Life in the Middle Ages: Essays presented to Margaret Gibson*, ed. Lesley Smith and Benedicta Ward (London, 1992), 6, her analysis of Coulaines supports this, while providing a rather stark contrast to the arguments of Lot, Halphen, and Ganshof. She calls the *comentus* "a belated birth-certificate" for Charles' kingdom, where he undermined the growth of factionalism and collaborated with the lay and ecclesiastical powers in his realm.

center, region, and locality fostered consensus.<sup>162</sup> This was a feature of the Carolingian system, not a description of any one Carolingian's situation. The use of the vernacular, or even multiple vernaculars, in some situations, such as the oaths of Charles and Louis the German at Strasbourg, reveals the desire for all present (not just the *seniores*) to understand the content of the message. Nelson argues that certain sections of the capitularies, though preserved in Latin, were actually read aloud to the assembly in the vernacular. She identifies the *adnuntiatio* of the Edict of Pîtres as an example. It was an attempt to generate support for decisions put forth at the assembly from the entirety of those in attendance: *seniores*, *minores*, and *caeterum*.<sup>163</sup>

Nelson's depiction is supported by Innes's work on regional and local power in the Rhine valley. His reliance on local evidence, such as charters, rather than capitularies, results in an approach to networks of power from the ground up. He eschews terminology of 'administration' or 'government' for more personal relationships and informal ties. Since, Innes argues, Carolingian kings lacked the infrastructure for consistent coercion, they had to rely on influence over local powers. Power was "claimed and negotiated through the collective actions of a series of overlapping and interleaving groups on a hierarchy of public stages".<sup>164</sup> Innes is speaking more specifically to local power here, but the Carolingians had to tap sources of local power across their empire to support their own positions. The aristocracy acted as the mediator between the centralized authority of the king and the

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<sup>162</sup> See Nelson, "Consensus," 67-81.

<sup>163</sup> Nelson, "Consensus", 73-75. For evidence of the *adnuntiatio* likely being spoken in the vernacular, she cites the capitulary from the meeting between Charles, Louis the German, and Lothar II at Coblenz in 860 (MGH, Cap., II, no. 242), in which parts of each king's speeches were specifically mentioned as having been given in either the *lingua romana* or the *lingua theodisca* (74). This indicates that the vernacular was used in the process of capitulary creation and promulgation, but this usage only became visible in the record when the particular vernacular used was mentioned.

<sup>164</sup> See Innes, *State and Society*, 140, for the quote, and chapter four (94-140) as a whole for his discussion of local power and consensus.

locality. As a result, aristocratic and royal power did not need to be defined in opposition to one another, but in terms of their joint ability to extract resources at the local level.<sup>165</sup>

The utility of consensus emerges from the focus on connections between the local and the central. Whether Nelson’s “connectivity” or Innes’ “points of contact”, the king and the aristocracy’s ability to govern—at a more basic level, to extract resources—hinged on the links between centralized authority and locality.<sup>166</sup> Kings needed the aristocracy, who held power at regional levels, to tap the resources on the ground level of society. As the Carolingians consolidated their power throughout the second half of the eighth century, the aristocracy became dependent on royal patronage to maintain their hold at both the regional and local levels.<sup>167</sup> A powerful man may have roots in a particular area, but expansion beyond the locality—and even legitimized control within that locality—required royal backing and the gift of *honores* in some form.<sup>168</sup> The resulting symbiosis held the realm together and necessitated some form of consensus in kingdom-wide politics. The king did not rule only over the social network of his kingdom, but through it. The capitularies that resulted from the assemblies did not represent norms of institutionalized royal control, but rather examples of royal focus exercised through regional and local channels. Kings took advantage of these networks in specific circumstances, approved by consensus and backed

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<sup>165</sup> Innes, *State and Society*, 259-263.

<sup>166</sup> The importance of this connection was laid out in detail by Werner, “Missus-marchio-comes,” 191-239. Werner and other scholars, such as Airlie (“Aristocracy in the service of the state,” 93-111), have focused on the hierarchical nature of the connections between center and locality. While I would certainly not argue against the existence of this hierarchy, I think it is important to emphasize the symbiotic nature of the relationship between the king and the nobility.

<sup>167</sup> This was due, in large part, to Charlemagne’s efforts to redefine power relationships to fit within the framework of royal authority. See his banning of *coniurationes* in 779 (MGH, Cap., I, no. 20. c. 1), and his institution of a required oath across the kingdom in 789 (MGH, Cap., I, no. 23), both of which stressed vertical social connections over horizontal. Also relevant is the common term for the aristocracy in the capitularies: *fideles*, or ‘faithful men’. They were defined by their responsibilities to the king (Janet Nelson, “Kingship and empire in the Carolingian world,” in *Carolingian Culture: Emulation and Innovation*, ed. Rosamond McKitterick (Cambridge, 1994), 62-63).

<sup>168</sup> Innes, *State and Society*, 210-222.



by the weight of royal command. As Hincmar stated, the participants at an assembly must see the king working to maintain the realm.<sup>169</sup> The assembly acted not only as a stage to exhibit consensus, but as a field on which the king could foster it. This is supported by the evidence of regional interests in the capitularies.<sup>170</sup> The king wanted to show his assembled subjects that he was ruling effectively.

## Royal Authority

The discussion on royal authority is much too large to address here in any detail, but I will make a brief foray into the topic, since it is a vital part of the capitulary tradition. The topic overlaps with some of the most contentious areas in early medieval history, such as the division between public and private spheres and the extent of institutional continuity from the later Roman empire. I will only attempt to lay out a general background on the subject, with some references, to make transparent my own framework of interpretation and to complement the previous discussion of consensus.

Royal authority under Charles the Bald—under all the Carolingians—extended to all land within the kingdoms they ruled.<sup>171</sup> While this is a simple point, it is important to emphasize that there was no independent island within West Francia; the holdings of all nobility and clergy within the realm were in some way conditional. The king was the largest landholder in the realm, but he also had power over the land of his subjects. Even immunities, ecclesiastical lands designated by the king as off limits to his local lay agents, were within his

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<sup>169</sup> Hincmar, *De ordine palatii*, c. 29.

<sup>170</sup> The Edict provides a good example of this in c. 31 (MGH, Cap., II, no. 273, c. 31, pg. 323-324), which dealt with refugees from Viking-ravaged territory. This was clearly not an issue that effected the whole of the kingdom, but primarily areas that bordered the lower reaches of the Seine and Loire river basins.

<sup>171</sup> While the terms ‘authority’ and ‘power’ can often be used synonymously, in the context of this discussion I am defining ‘royal authority’ as the extent of the legitimized control exercised by the king. Power, more generally, is actualized control over land, people, and resources.

sphere of protection and had obligations to him.<sup>172</sup> Ganshof put great emphasis on the *bannum* of the Carolingian king as the source of his authority and, by extension, the authority of the capitularies.<sup>173</sup> He takes references to the *bannum* in particular situations, and distills an abstract concept of authority from it.<sup>174</sup> The *bannum*, Ganshof argues, was the king's ability to command and to punish, and Ganshof describes it as absolute, at least under Charlemagne.<sup>175</sup> His definition of the *bannum* looks very much like Roman *imperium*. Royal officials were imbued with an extension of this authority, emanating from the king. The term *bannum* is used also for the fine issued if the king's decrees were violated. The Edict of Pîtres uses it in this context in a number of *capitula*—much more frequently than any reference to the *bannum* as a more general royal command.<sup>176</sup>

Innes has challenged what he calls Ganshof's interpretation of the *bannum* as a “constitutional principle”, as part of the former's critique of the search for a modern institutional framework in early medieval society.<sup>177</sup> Innes sees the *bannum* as a description of specific royal orders, rather than the general principle of royal authority.<sup>178</sup> This

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<sup>172</sup> The terms of a particular immunity varied. They could forbid secular officials from entering an immunity for purposes of tax collection, or they could give over the entire judicial apparatus to the holder. What is relevant, in this context, is that the king was granting the terms to a person/institution of his choosing, and there was a direct relationship that then connected the monarch with the holder. See decrees on immunities in cc. 5 and 18 from the Edict of Pîtres, below. For immunities as forms of control, see Wendy Davies and Paul Fouracre, introduction to *Property and Power in the Early Middle Ages*, ed. Wendy Davies and Paul Fouracre (Cambridge, 1995), 12-16; and Barbara Rosenwein, *Negotiating Space: Power, Restraint, and Privileges of Immunity in Early Medieval Europe* (Ithaca, NY, 1999), 97-134, for chapters 5 and 6 on Carolingian use of immunities.

<sup>173</sup> Ganshof, *Recherches*, 29-30.

<sup>174</sup> F.L. Ganshof, *Frankish Institutions under Charlemagne*, trans. Bryce Lyon and Mary Lyon (Providence, 1968), 11-12.

<sup>175</sup> See F.L. Ganshof, “Charlemagne's programme,” 62; and Ganshof, “Institutional framework,” 88. As described above, Ganshof saw Charles the Bald's authority as conditional after the assembly at Coulaines in 843.

<sup>176</sup> MGH, Cap., II, no. 273, cc. 15, 20, 21, 22, 23, 24, 28, 33. Cc. 28 and 33 use the term in both capacities, as the king's ability to issue a decree and as the fine for violating that decree. The Edict follows the traditional amount for the fine, 60 *solidi*.

<sup>177</sup> Innes, *State and Society*, 5.

<sup>178</sup> Innes, *State and Society*, 5 and 143.

interpretation approaches the *bannum* in a way parallel to my own analysis of the use of the capitularies themselves—namely, that the latter documents represented specific interventions in the administration and legislation of the kingdom. Though I agree with Innes’ definition of the *bannum*, Ganshof’s description of the power structure that linked king and royal officials is useful. The king’s own legitimacy lent weight to the position of those who held *honores* from his hand. His officials, such as counts and *missi*, shared in the public power anchored in royal legitimacy. This brings us to the question of public versus private power and the dynamic at work in the Carolingian period.

Public power, derived from the state or some other ‘legitimate’, centralized authority, is normally described in opposition to private power, such as the power arising from local control of land or informal ties of patronage. The relationship between public and private power is linked to the scholarly conceptualization of the bond between king and nobility. The slide from centralized power to ‘feudalism’ was traditionally attributed to a usurpation of public power by private (non-royal) individuals, a process which is often traced to the mid-ninth century.<sup>179</sup> Given this common start date for decentralization of power, often in the reign of Charles the Bald, it is worth addressing here.<sup>180</sup>

There are two key premises for this problematic argument. The first premise is that there was a clear, modern dichotomy between public and private in the early medieval period, with

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<sup>179</sup> For the assault on feudalism as an historical construct, see principally Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford, 1994). Also relevant is the debate on the continuing usefulness of the concept of ‘feudalism’ in *Past and Present*, where a series of scholars modify, adapt, and reject various aspects of the ‘feudal transformation’. See Thomas Bisson, “The ‘Feudal Revolution’,” *Past and Present* 142 (1994): 6-42; Dominique Barthélemy and Stephen White, “Debate: The ‘Feudal Revolution’,” *Past and Present* 152 (1996): 196-223; and Timothy Reuter and Chris Wickham, “Debate: The ‘Feudal Revolution’,” *Past and Present* 155 (1997): 177-225.

<sup>180</sup> Though the language of consensus is often cited as a sign of royal weakness, as seen in the previous section, the Capitulary of Quierzy (877) (MGH, Cap., II, no. 281, pg. 355-361) and its supposed establishment of the heritability of benefices is sometimes identified as a significant step down the road toward fragmentation of power. For an example of this citation of Quierzy, see Ganshof, *Feudalism*, 48-49.

the balance shifting to private by the end of the ninth century.<sup>181</sup> This dichotomy implies a struggle between holders of public power and holders of private power, especially since the tenth and eleventh centuries have been cast as a culmination of this contest, with private power emerging as preeminent.<sup>182</sup> Related to this view is the second premise, that the relationship between king and nobility was necessarily adversarial. The king is cast as the embodiment of public power, with the nobility representing private power.

Embedded in these assumptions are two very different ideas, though both are expressed in terms that create a competition between the king and the powerful men of his realm: first, that public power in this period can be viewed in terms of the modern concept of the state, essentially separate from private power, and second, that central and regional authorities were fighting over a single form of control: power as expressed by land ownership. The latter issue, a zero-sum approach to early medieval power, is bound up in the assumption that power was based exclusively on land control.<sup>183</sup> Essentially, if one person controls a certain amount of land, another person cannot control it. With this calculus, only one person/authority can derive power from a piece of land at a time. Land is a limited resource, so social/political power is, as well. This assumes a lack of 'legitimate', or public, authority. If land equals power in an absolute sense, then there is no place for any sort of 'state' control or acknowledged public authority.<sup>184</sup> Royal control, in this view, cannot supersede an

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<sup>181</sup> Modern, in this context, refers to a dichotomy recognized by inhabitants of the modern state. A similar dichotomy is often applied to the Roman empire, particularly the Dominate.

<sup>182</sup> 'Private power' is a nebulous term, but, in this context, I am referring to the power and influence resulting from wealth and personal social connections. This type of power can be coercive, but it is not legitimized by public office and the accompanying authority.

<sup>183</sup> See Bloch, *Feudal Society*, for an example of this assumption. See Davies and Fouracre, intro to *Property and Power*, 2-8, for a discussion of the problems of this zero-sum approach.

<sup>184</sup> For a discussion of private power in the post-Carolingian period, see Bisson, "The 'Feudal Revolution'," 6-42. For a continuation of his argument for personal lordship, disassociated from any real connection to the concept of 'public order', see Thomas Bisson, *The Crisis of the Twelfth Century: Power, Lordship, and the Origins of the European Government* (Princeton, 2009), 1-21.

individual holder's control of land. The king becomes merely the most powerful landholder among a group of powerful landholders.

Each assumption has a fundamental problem. The zero-sum approach, as reflected by the land equals power equation, does not address the issue of extraction. A lord had to have people work for him and provide him with the product of their labor, whether that was the surplus of agricultural workers or the coercive ability of armed men. He needed a means to maintain their loyalty, or at least their obedience. Without some form of legitimized, institutional authority, this represents the extreme 'private' end of the private/public spectrum, and it is unlikely that such an arrangement would last long without some appeal to legitimacy. This connects to the second problem, the modern expectations for separation of public and private powers.<sup>185</sup> Public power did not cease to function in post-Roman Europe. Neither can public power in the early medieval period be disentangled entirely from private, or local, power.<sup>186</sup> More accurately, the dynamic between legitimate, public authority and private coercion/control changed.<sup>187</sup> The unfavorable comparison made by some scholars between modern or classical expectations of government and the situation during the Carolingian period amounts to a straw man. While the separation between public and private was not as great as under the Roman empire, it is a mistake to assume that the public/private distinction collapsed entirely.<sup>188</sup>

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<sup>185</sup> For critiques of the public/private dichotomy in this period, see Barthélemy, "Debate," 196-197; Innes *State and Society*, 254-259; and Janet Nelson, "The Problematic in the Private," *Social History* Vol. 15, No. 3 (Oct. 1990): 355-364.

<sup>186</sup> See Inne's critique (*State and Society*, 5-7) of Ganshof's search for an essentially modern state structure under the Carolingians.

<sup>187</sup> For a discussion of the continued distinction between public and private power after the Roman economic mechanisms supporting that public power failed, see Paul Fouracre, "Cultural Conformity and Social Conservatism in Early Medieval Europe," *History Workshop* No. 33 (Spring 1992): 152-161.

<sup>188</sup> The patron/client relationship provides a good example of informal, social power that was integral to the Roman social and political landscapes. See Richard Saller, *Personal Patronage under the Early Empire*

From that difference arises a necessary categorization of levels of power. On the one hand, there is local control, which is very much based on control of land and one's place within the social structures of a locality. On the other hand, there are regional and centralized powers, which rely on their ability to extract resources from a range of localities.<sup>189</sup> In the Carolingian period, the king was the source of legitimate authority. The king could then pass on that aura of legitimacy to regional nobility through association with him (offices/*honores*),<sup>190</sup> and enable them to employ their legitimized authority to control localities in their region and extract resources in the king's name.<sup>191</sup> The Carolingians were eager, however, to maintain connections with the locality separate from their networks of magnates. The relationship between king and noble was not inherently adversarial, but an overly-powerful magnate was still a danger. Oaths and grants of immunity are two examples of the king's steps to avoid this.<sup>192</sup> Control of the church provided a distinct, if not entirely

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(Cambridge, 1982); and Andrew Wallace-Hadrill, "Patronage in Roman Society," in *Patronage in Ancient Society*, ed. Andrew Wallace-Hadrill (London, 1989), 63-88.

<sup>189</sup> On the king's reliance on connections between center and locality, see Werner, "Missus-marchio-comes," 191-239; Nelson, "Consensus," 67-81; and Innes, *State and Society*, 259-263. For a study of connections between center and periphery in Brittany in the time of Charles the Bald, see Smith, *Province and Empire*, 86-115.

<sup>190</sup> Airlie, "Aristocracy," 95-97, argues that the aristocracy, by the reign of Louis the Pious, saw themselves as a "state elite" engaged in public service under the king. His analysis is useful, though the acknowledgment of a hierarchy among office-holding elite was likely diminished in period after 843 (or even after the beginning of Louis' troubles in 830), when there was not a clear hierarchy even within the Carolingian family.

<sup>191</sup> Pössel, "Authors and recipients," 268-269, argues that the act of sending a capitulary to a royal agent was a means through which the center—the king—could enact "the redefinition of locally powerful people as royal representatives and office-holders (such as counts, *vassi* or *missi*)".

<sup>192</sup> On oaths, see F.L. Ganshof, "Charlemagne's use of the oath," in *The Carolingians and the Frankish Monarchy*, trans. Janet Sondheimer (Ithaca, NY, 1971), 111-124, originally published as "Charlemagne et le serment," *Mélanges d'histoire du Moyen Âge dédiés à la mémoire de Louis Halphen* (Paris, 1951), 259-270; Matthias Becher, *Eid und Herrschaft: Untersuchungen zum Herrscherethos Karls des Grossen* (Sigmaringen, 1993); and Nelson "Consensus," 78-80. On immunities, see Rosenwein, *Negotiating Space*, 97-134; and Davies and Fouracre, introduction to *Property and Power*, 12-26. For discussions of earlier Frankish uses of immunities, see Alexander Murray, "Immunity, nobility and the edict of Paris," *Speculum* 69 (1994): 18-39; and Paul Fouracre, "Eternal light and earthly needs: practical aspects of the development of Frankish immunities," in *Property and Power in the Early Middle Ages*, ed. Wendy Davies and Paul Fouracre (Cambridge, 1995), 53-81. Cullen Chandler, "Between court and counts: Carolingian Catalonia and the *aprisio* grant, 778-897," *Early Medieval Europe*, vol. 2 no. 1 (2002): 19-44, provides another example of the king maintaining power at the local level, outside of the network of regional magnates. Chandler argues that the *aprisio* land grant, given by the king to individuals in the

separate, network for a Carolingian ruler to tap in his efforts to control the land and population of his kingdom.<sup>193</sup> Kings worked to orient the webs of interaction throughout the realm toward themselves at the center. The Carolingian dynasty was remarkably successful in doing so, but the currency of power was still control at the local level.

## Questions of Literacy

The issues of authority and power are complex, but even seemingly straightforward aspects of the capitularies prompt social and cultural questions with no easy answers. An obvious characteristic of the capitulary—its written form—speaks to the role of the written word and the nature of literacy in Frankish society, but it does not always speak clearly. It is only in the last thirty years that much attention has been given to literacy levels in lay society. The importance of the physical form of the capitulary, as a symbol of the king's word, has been debated for much longer, but more nuanced understandings of the Carolingian relationship with the written word has added much to our understanding of the royal decrees.

A few observations about the Edict of Pîtres will lend some depth to the more general discussion of literacy below. Like almost all continental legislation from the early medieval period, the Edict is in Latin. The peoples of the Carolingian empire spoke a variety of

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Spanish march, was a means of bringing men with military obligations directly under royal authority, and thus removing them from the authority of regional magnates.

<sup>193</sup> See F.L. Ganshof, "The Church and the royal power of the Frankish monarchy under Pippin III and Charlemagne," in *The Carolingians and the Frankish Monarchy*, trans. Janet Sondheimer (Ithaca, NY: Cornell University Press, 1971), 205-239, originally published as "L'Eglise et le pouvoir royal dans la monarchie franque sous Pépin III et Charlemagne," *SSCI* VII (Spoleto, 1960), 95-141, for a discussion of this under the earlier Carolingians. Charles the Bald was clearly able to draw on ecclesiastical support, as well. He used wealth from ecclesiastical institutions to raise the *tributum* for the Vikings, on a number of occasions (see *AB* 860, pg. 92; *AB* 866, pg. 130; and *AB* 877, pg. 200), and Louis the German's inability to undermine episcopal support of Charles in 858 was a key factor in the failure of his invasion of West Francia (see pg. 69-71, along with note 249 on Hincmar's letter).

languages, but the heartland in northwest Europe contained speakers of both Romance and Germanic tongues. Charles the Bald's West Francia primarily spoke Romance; the oath of Strasbourg, recorded by Charles' cousin Nithard, is one of the earliest examples of this language in the written form, when Louis the German gave an oath in front of Charles' men in their own language.<sup>194</sup> Though Nithard's text shows that Romance had drifted away from its Latin roots, it is not clear when this separation had occurred or to what extent Romance speakers would have viewed Latin as a 'foreign' language.<sup>195</sup>

McKitterick argues that, for the inhabitants of West Francia, Latin was the "formal written version of one's native language".<sup>196</sup> This would have made the basic literacy level significantly higher in West Francia, but for anywhere in the empire, literacy meant Latin literacy. Latin was the language of the church, which was a key institution in maintaining the use of Latin in the centuries following the collapse of Rome's power. Latin was also the language of law. Kings who legislated in Latin placed themselves in the lineage of Roman lawmakers.<sup>197</sup> McKitterick argues that it was not the content, the law itself, but rather the vehicle for that content, the written word, that was Rome's most important legacy to the early medieval world.<sup>198</sup>

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<sup>194</sup> See Nithard, bk. III, ch. 5. Charles gave the same oath in the Germanic tongue, so Louis' men could understand him.

<sup>195</sup> For a discussion on this split between Romance and Latin, see Roger Wright, *Late Latin and Early Romance in Spain and Carolingian France* (Liverpool, 1982); and Marc van Uytendaele, "Histoire du Latin, protohistoire des langues romanes et histoire de la communication. A propos d'un recueil d'études, et avec quelques observations préliminaires sur le débat intellectuel entre pensée structurale et pensée historique," *Francia* 11 (1983): 579-613. On the end of the use of spoken Latin in France, see Michael Richter, "A quelle époque a-t-on cessé de parler Latin en Gaule? A propos d'une question mal posée," *Annales E.S.C.* 38 (1983): 439-448.

<sup>196</sup> See McKitterick, *Carolingians*, 22, for the quote. See 7-22 for a discussion of language in the Carolingian empire, including a review of the relevant literature.

<sup>197</sup> Wormald, "Lex Scripta," 115.

<sup>198</sup> McKitterick, *Carolingians*, 2-3.



The Latin of the Edict is often complex. The *capitula* usually are not simple commands, but detailed descriptions of royal decrees and the required means of executing them.<sup>199</sup> They employ dense language of biblical and legal references and allusions, drawing from both Roman and Frankish legal traditions. This shows that the original drafters of the capitulary were highly literate and educated. We cannot say unequivocally that all those present at the assembly would have been able to read or understand the document, but it seems likely that at least the counts, *missi*, and bishops had a firm grasp on the written legislation, since they were expected to promulgate it throughout the realm.<sup>200</sup> Bishops were instructed to relate the Edict orally to their dioceses.<sup>201</sup> The Carolingian administration relied heavily on written documents, but legislation still needed to be orally presented throughout the realm in a language understandable to the majority of people.<sup>202</sup>

Though capitularies were written documents, scholars do not agree on the role and significance of that written form in the Carolingian legislative framework. Ganshof argues that Charlemagne employed the written word to set up an administrative network and connect him to his agents across the empire. This effort was a failure, he contends, due largely to a lack of literacy among the lay (and even ecclesiastical) administrators in Charlemagne's employ. In this explanation, the written documents themselves were merely a

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<sup>199</sup> A few of the *capitula* are relatively simple, notably cc. 10, 11, and 12 in the section of the Edict on coinage reform.

<sup>200</sup> See MGH, Cap., II, no. 273, *Adnuntiatio* 3 (pg. 311) and c. 36 (pg. 327).

<sup>201</sup> See MGH, Cap., II, no. 273, *Adnuntiatio* 3, pg. 311. The Edict does not explicitly tell them to translate the *capitula*, so the specifics of this process do not give us any insight into the language situation in the kingdom. The text of the *capitulum* orders the capitulary "to be delivered...by means of a public speech" (*traditi...aperto sermone*). McKitterick, *Carolingians*, 31, translates *aperto sermone* as "in straightforward language".

<sup>202</sup> See MGH, Cap., II, no. 273, *Adnuntiatio* 3, pg. 311, which requires bishops to present the *capitula* of the Edict publicly to their dioceses in a speech, "so that they may be able to be understood by all". It is difficult to know what this mandate entails, since our knowledge of the connections between Latin and Romance at this time is not complete. However, Bernard Bachrach, "Writing Latin History for a Lay Audience c. 1000: Dudo of Saint Quentin at the Norman Court," *The Haskins Society Journal*, vol. 20 (2009), 67-71, argues that, well over a century after the Edict, many Romance speakers with no formal Latin education could be expected to understand spoken Latin, though the level of understanding would depend on the accent and syntax with which the Latin was spoken.

vehicle for the real force, the word of the king (*verbum regis*).<sup>203</sup> Ganshof's interpretation has Charlemagne trying, and failing, to impose the use of the written word onto an essentially oral culture. Given the mountain of evidence for Carolingian use of the written word he used in his own work, Ganshof's dismissive attitude toward their efforts is surprising.

Ganshof's emphasis on the word of the king has been very influential. Wormald applies a similar criterion for the wider body of early medieval legislation. He cites the great variety of form of written legislation, as well as "the imprecision of many legal texts", as evidence for the marginal position of the written word in the actual legal and judicial processes.<sup>204</sup>

Wormald's premise is that the legal texts of the period were not sufficiently consistent or comprehensive to support an administrative or judicial system based on written law.

Mordek, however, has shown that the variety of forms a capitulary could take is not evidence of the marginalized place of the written word, but rather proof of the document type's active use in the administration of the kingdom. Those expected to promulgate the decisions made at the assembly, namely counts, bishops, and *missi*, would make their own copies of the decrees, due to a lack of sufficient copies from the royal chancery.<sup>205</sup>

The Edict of Pîtres decrees that the archbishops and counts in attendance are to receive a copy of the *capitula* from the royal *cancellarius*, but they are then responsible for having copies made for those within their diocese who are responsible for promulgating them.<sup>206</sup> A certain amount of variability is not surprising, given the royal chancellor's need to outsource

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<sup>203</sup> See F.L. Ganshof, "Use of the written word," 125-142. For Ganshof's appraisal of Charlemagne's attempts to set up a centralized administration, based largely on the use of the written word, see F.L. Ganshof, "Charlemagne's failure," in *The Carolingians and the Frankish Monarchy*, trans. Janet Sondheimer (Ithaca, NY, 1971), 256-260, originally published as "L'échec de Charlemagne," *Académie des Inscriptions et Belles Lettres. Comptes Rendus des séances* (1947), 248-254.

<sup>204</sup> Wormald, "*Lex scripta*," 123-124. See 124 for the quote.

<sup>205</sup> Mordek, "Kapitularien," 32-35. See the section above on use of capitularies as a source, above.

<sup>206</sup> MGH, Cap., II, no. 273, c. 36, pg. 327.

the production of copies to episcopal and comital notaries, but the wide promulgation of the capitulary texts shows a commitment to the standardization of the application of centralized decisions. These decisions were primarily royal, thus an emphasis on written orders marks an effort to consolidate royal authority, but the capitularies also represented a record of collective decision-making in the assembly and a stamp of consensus-based approval on the texts' contents.

The focus on the practical use of written documents in an administrative context implies a stark divide between an oral and a literate culture. Legal texts, in the analysis of historians such as Ganshof, were evidence for the study of royal government. There was less attention given to the social dimension of literacy, and its implications for use of the written word in government.<sup>207</sup> Literacy in the early medieval period began receiving more attention in its own right, rather than as a prologue to the renaissance of the High Middle Ages, in the 1980s, largely as a result of Rosamond McKitterick's work as a scholar and editor.<sup>208</sup> Her work, and that of a number of other early medieval scholars, has brought renewed attention to both the practical and symbolic role of literacy in early medieval society.<sup>209</sup>

Nelson's contribution to McKitterick's collection, *The Uses of Literacy in Early Mediaeval Europe*, highlights the importance of written documents to the mindset and social status of people within the Carolingian empire. She provides the example of *cartularii*—‘charter-

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<sup>207</sup> Nelson, “Literacy,” 262.

<sup>208</sup> McKitterick, *Carolingians*; and Rosamond McKitterick ed., *The Uses of Literacy in Early Mediaeval Europe* (Cambridge, 1990). For an earlier work on early medieval education, particularly its connections to classical literature and education, see Pierre Riché, *Education et culture dans l'occident barbare VIe-VIIIe siècles* (Paris, 1962). Though Riché finds evidence for continuity of aristocratic education between antiquity and the Merovingians, he argues that this tradition of lay literacy faded in the eighth century (Pierre Riché, “L'Enseignement et la culture des laïcs dans l'occident pré-Carolingien,” *Settimane* 5 (1972), 231-253. For studies of literacy after AD 1000, see James Westfall Thompson, *The Literacy of the Laity in the Middle Ages* (New York, 1939); and Michael Clanchy, *From Memory to Written Record 1066-1307*, 3rd ed. (Chichester, West Sussex, 2012).

<sup>209</sup> See Rosamond McKitterick, conclusion to *The Uses of Literacy in Early Mediaeval Europe*, ed. Rosamond McKitterick (Cambridge, 1990), 319-333, for a discussion of the findings of the authors in that collection.

men’—whose charters of manumission acted as both a symbol of their freedom and legal proof in court.<sup>210</sup> The written word acted as “complementary media” with the oral culture of politics. Legislation that was decided in the assembly was preserved and “solemnized” by the written word, and it was then read out to the assembled so they could receive and consent to it.<sup>211</sup> The written word served to bind the Carolingian empire together. It put a physical symbol of centralized authority into the hands of royal agents across Europe, and the literacy required to participate in the creation of these documents became a form of identification among the elite.<sup>212</sup>

The early medieval picture that emerges is one where orality and literacy are not adversarial concepts.<sup>213</sup> Geary describes another category to contain the symbiosis of these two traditions: vocality. He equates charters, the textual accounts of transactions involving land, as scripts for oral performances. They not only served to record a transfer of land; they also acted as a source for the future reenactment of the original oral agreement. With the reenactment, the pairing of written word and oral performance was maintained in later uses of the document, such as the defense of one’s legal right to land in court. The performance of the texts, enabled by a literate elite, incorporated written documents into the oral culture

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<sup>210</sup> Nelson, “Literacy”, 262-263. *Antrustiones*, or royal bodyguards, first to the Merovingians and later the Carolingians, were each issued a written document that attested to their status and to the accompanying increase in their wergild. See Bachrach, *Early Carolingian*, 68-71, for a discussion of the *antrustiones*.

<sup>211</sup> Nelson, “Literacy”, 281. Nelson presumably intends this description to apply across the Carolingian dynasty, at least from the time of Charlemagne and forward. As I have mentioned in the above discussion of assemblies, the role of the assembly—and, accordingly, of consensus—seems to have changed throughout the ninth century.

<sup>212</sup> Nelson, “Literacy”, 295-296.

<sup>213</sup> While the scholarly literature has moved toward this interpretation as a whole, it is not a new idea. Reinhard Schneider, “Zur rechtliche Bedeutung der Kapitularientexte”, *Deutsches Archiv für Erforschung des Mittelalters* 23 (1967): 273-294, argues that the text became the source of oral promulgation. It was, therefore, a source of legal authority itself, and not just evidence of oral decrees.

of a largely illiterate populace.<sup>214</sup> His approach works well with the Edict, which combines text with oral pronouncements on multiple levels. First, the *adnuntiatio* and the supplementary *capitula* were intended to be read aloud at the assembly, as discussed above.<sup>215</sup> Second, the bishops were expected to deliver orally the contents of the capitularies to their dioceses.<sup>216</sup> Capitularies acted on one level as administrative documents, ensuring a level of consistency of execution throughout the realm, and on another level as a means of interface between the written medium and oral promulgation.

## The Edict of Pîtres

The Edict of Pîtres is one of over fifty extant capitularies from Charles the Bald's reign.<sup>217</sup> In this respect, he is the heir of his imperial father and grandfather, while his brother Louis the German seems to have issued no capitularies.<sup>218</sup> The Edict survives in twelve manuscripts known today; the editors of the MGH used eight when compiling the edition on which this translation is based.<sup>219</sup> It is a lengthy document, by the standards of the capitulary tradition, covering seventeen pages in the MGH. It contains an *adnuntiatio*, a section likely read to those in attendance at the Pîtres assembly. The body of the text is thirty seven *capitula*, with three supplementary *capitula*. Those final three were likely read aloud, as

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<sup>214</sup> Patrick Geary, "Land, Language and Memory in Europe, 700-1100," *Transactions of the Royal Historical Society* Vol. 9 (1999), 183-184. He suggests that the Latin documents would be translated for the 'reenactment', so as to be understandable to all in attendance. Some aspects of the charters, particularly those related to boundary descriptions, were sometimes recorded in the vernacular, likely for purposes of increased precision and accessibility (177-182).

<sup>215</sup> MGH, Cap., II, no. 273, *Adnuntiatio* 1-3 (pg. 311) and supplementary *capitula* 1-3 (pg. 328).

<sup>216</sup> MGH, Cap., II, no. 273, *Adnuntiatio* 3, pg. 311.

<sup>217</sup> See Nelson's appendix of capitularies in "Legislation," 112-114.

<sup>218</sup> Ganshof, *Recherches*, 102. See Goldberg, *Louis*, 210-211, for a discussion of literacy in East Francia. Lothar, Charles' eldest brother, has a limited connection to the capitulary tradition. He issued (and reissued) a number of capitularies in Italy. See Ganshof, *Recherches*, 16-18.

<sup>219</sup> See the index of Mordek, *Bibliotheca*, 1108, for the listing of manuscript collections, and MGH editorial intro for the texts consulted for the MGH edition.

well. The language for them matches the *adnuntiatio*, with second person address.<sup>220</sup> The subject matter of the *capitula* were often technical and complex, and the document regularly refers to previous capitularies (Charles' own and those of his father and grandfather), and to Roman law.<sup>221</sup> The text was ambitious in both form and scope.

The Edict regularly references prior Frankish legislation. There are nearly thirty references to specific *capitula* of Charles' father and grandfather, as preserved in the collection of Ansegisus, as well as to two of Charles' own previous capitularies.<sup>222</sup> This emphasizes the sense of history and tradition inherent in the issuance of capitularies. It also highlights the *ad hoc* approach to problem-solving using the document type. Capitularies were often meant to affect permanent changes to the law of the land, but the individual *capitula* were used to deal with immediate issues within the kingdom, or even within a region. Citations from earlier capitularies could be taken as an appeal to the authority of a particular *capitulum*—and they likely were—but they also reemphasized relevant decrees in a new context. As I argued in my description of the capitulary, Carolingians used these decrees to intervene in localities in specific ways. Capitularies were the flexing of royal muscle, so past decrees often needed to be actively reapplied.<sup>223</sup>

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<sup>220</sup> In the 864 entry for the *AB* (pg. 118), Hincmar describes the promulgation of 37 *capitula* by the assembly, highlighting the different status of the three *capitula* which come before and after the main body of the *Edictum*. An example of the second person address is found in the first line of the *Adnuntiatio* c. 1 (MGH, Cap., II, no. 273, pg. 311)- “We give many thanks to you for your fidelity and good will.” The second person address occurs only once in the *Edictum* itself (c. 37, pg. 328).

<sup>221</sup> The Edict also referenced the ‘custom of other peoples’ (*aliarum gentium consuetudinem*). See MGH, Cap., II, no. 273, c. 27, pg. 321-322. Gillmor, “Small free farmers,” 39-42, identifies this as a reference to the *trinoda necessitas* of the Anglo-Saxons.

<sup>222</sup> See the notes for the translation, as well as the appendix, for specific references. The citation of Ansegisus' book/*capitulum* organization in the Edict does not always align with the text of the MGH edition of his collection. These discrepancies reflect the variabilities within the manuscript tradition. Single quotation marks in the Edict (both in Latin and in English) indicate direct quotes from prior legislation, or the Bible (as indicated in my notes for the text). See Nelson, “Legislation”, 98, for discussion of the Edict's links to prior Frankish legislation.

<sup>223</sup> The context of the decree would often change from the original issuance to the later citation, as seen in c. 25 of the Edict (MGH, Cap., II, no. 273, pg. 321). It quotes from a capitulary of Charlemagne on the sale of

Roman law makes a large contribution to the Edict, as well. Several of the *capitula* allow for the judgment and punishment by Roman law within West Francia.<sup>224</sup> Ganshof has identified seven *capitula* that explicitly take from Roman law, particularly the Theodosian Code.<sup>225</sup> Nelson has expanded on Ganshof's work, arguing that the Edict as a whole was inspired by Roman law.<sup>226</sup> She compares the *capitula* to the Novels of the Christian Roman emperors.<sup>227</sup> The Carolingians sought to identify with these later Roman emperors, a parallel that was encouraged by the clergy. For example, Hincmar, a constant figure in Charles' reign, held Theodosius I (r. 379-395) up as a model for Charles, not only for his reputation as a just ruler, but also for his willingness to follow ecclesiastical guidance.<sup>228</sup> Charles seemed to look to Theodosius II (r. 408-450), as well, or at least to his work as a lawmaker. References to 'ancient custom' (*antiqua consuetudo*) were citing the Theodosian code.<sup>229</sup>

Charles was making a claim for Frankish inheritance of Roman law. This represents a larger Carolingian phenomenon: *imitatio imperii*.<sup>230</sup> Carolingian kings wished to cast themselves in the mold of the Roman emperors. This is best exemplified by Charlemagne's

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war materiel to outsiders. Charles the Bald is trying to prevent the supply of Viking raiders, while Charlemagne was referring to trade to the Slavs on the eastern frontier. See Nelson, "Translating," 94, for the reference to Charlemagne's capitulary (MGH, Cap., I, no. 44, c. 7, pg. 123).

<sup>224</sup> See note 49.

<sup>225</sup> Ganshof, *Droit romain*, 30-38. He discusses the Roman influence on cc. 13, 16, 20, 23, 28, 31, and 34. Ganshof also shows that, in places, the divide between enforcement of Roman and non-Roman law was ignored. For example, c. 34 of the Edict cites Roman law in the body of the *capitulum* for general enforcement, then ends the *capitulum* with a mandate to follow Roman law for those who is it appropriate (36-37). For the *Codex Theodosianus* itself, see the English translation, Clyde Pharr, *The Theodosian Code, the Novels and the Sirmundian Constitutions* (Princeton, 1952).

<sup>226</sup> Nelson, "Translating," 89-98.

<sup>227</sup> Nelson identifies a number of allusions to Valentinian III's Novels, including one direction quotation (c. 34 of the Edict quotes Valentinian's Novel 34). The first seven *capitula* address issues found in Valentinian's Novels, as well. See Nelson, "Translating," 96-98.

<sup>228</sup> See Nelson, "Translating," 89-93 for the use of Roman emperors as models.

<sup>229</sup> Nelson, "Translating" 96. See Bernard Bachrach, *Early Carolingian Warfare: Prelude to Empire* (Philadelphia, 2001), 137; and Bernard Bachrach, "Carolingian Military Operations: An Introduction to Technological Perspectives," in *The Art, Science and Technology of Medieval Travel*, ed. R. Bork and A. Kann (Aldershot, 2008), 23-24, for the use of this phrase in connection to bridge maintenance.

<sup>230</sup> For a discussion of this phenomenon, see Michael McCormick, *Eternal Victory: Triumphal Rulership in Late Antiquity, Byzantium and the Early Medieval West* (Cambridge, 1990), 362-384.

crowning as emperor in 800, and the subsequent efforts by his descendants to take the title for themselves. Charles seized the imperial mantle in 875, but his aspirations are visible throughout his reign. Upon gaining control of Aquitaine in 849, he issued charters as “king of the Franks and Aquitanians”; the claim of rulership over multiple peoples had imperial implications.<sup>231</sup> In the Edict, Charles identifies the Roman emperors as his ‘predecessors’.<sup>232</sup> The *Annals of Fulda*, a chronicle with an East Frankish perspective often quite hostile to Charles, wrote that Charles tried to take the title of emperor after invading his nephew Lothar’s kingdom.<sup>233</sup> He finally succeeded on Christmas in 875.<sup>234</sup> The Edict, itself, represents the very tangible Carolingian debt to Roman law, as well as the Carolingian desire to place themselves in larger Roman imperial tradition.

We have no solid evidence for the authorship of the Edict.<sup>235</sup> Given the conditions in which a capitulary was created, it is difficult to say with any certainty who produced the final redaction of a particular document. Attributing the Edict to Hincmar is very appealing; his presence dominates the intellectual landscape of ninth-century West Francia.<sup>236</sup> More than half of the surviving capitularies from Charles’ reign have been attributed to Hincmar’s pen

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<sup>231</sup> Nelson, “Translating,” 92.

<sup>232</sup> Ganshof, *Le droit romain*, pg 36 n. 69. See MGH, Cap., II, no. 273, c. 34, pg. 326, for this identification.

<sup>233</sup> *AF* 869, pg. 61. Nelson, “Translating,” 92. This again relates to the imperial nature of holding multiple kingdoms. In 876, after Charles actually had the imperial title, the *AF* criticized his pretensions in privileging the “glories of the Greeks” over more traditional Frankish dress. See *AF* 876, pg. 79.

<sup>234</sup> See *AB* 875-876, pg. 189. The date for the coronation, mirroring his grandfather’s seventy-five years earlier, shows the complex set of traditions Charles was working within. He had both Roman and Carolingian predecessors to follow.

<sup>235</sup> See Pössel, “Authors and recipients,” 253-274, particularly 266-267, for a discussion on the concept of authorship in the capitulary tradition.

<sup>236</sup> The bibliography on Hincmar is extensive. A few examples are Devisse *Hincmar*; J.M. Wallace-Hadrill, “Archbishop Hincmar and the authorship of *Lex Salica*,” in *The Long-Haired Kings* (London, 1962), 95-120; Heinz Löwe, “Hincmar von Reims und der Apokrisiar: Beiträge zur Interpretation von ‘*De ordine palatii*,’” in *Festschrift für H. Heimpe* 3 (Göttingen, 1972), 197-225; and Nelson, “Kingship, Law and Liturgy,” 241-279.



by various scholars.<sup>237</sup> Nelson, originally a strong proponent of Hincmar's authorship for many of Charles' capitularies, has tempered her view somewhat.<sup>238</sup> Hincmar is still the best candidate, given his legal knowledge, his relationship with the king, and his connection to the assembly process, but we do not have the evidence to make a firmer statement than that.

## The context of the Edict

The Edict of Pîtres presents a problem, and an opportunity. It is a rich document, a pinnacle of the Carolingian capitulary tradition. Nelson calls it “the most remarkable piece of legislation between Justinian's Novels and the twelfth century”,<sup>239</sup> while Wormald described it as “the climax of Carolingian law-making”.<sup>240</sup> The Edict logs a long list of issues important to the king and nobility of West Francia, and it represents a bold claim for royal authority. The problem arises from that claim. Given the traditional narrative of later Carolingian weakness, scholars have found it difficult to credit the king with such broad measures and sweeping reforms. A brief review of the context of the document will show why Charles felt the need to make this powerful claim on royal authority, and it will show some of the effects of the Edict and Charles' claim on the rest of his reign.

The decade leading up to the Edict of Pîtres witnessed the intersection of the three primary threats to Charles' position—dynastic rivals, unruly magnates, and Viking raiders—on a scale unprecedented in his reign. The quarrel between Charles and his brother, Louis

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<sup>237</sup> See Nelson, “Legislation,” 97, for a discussion of this. She adds a number of attributions to previous efforts by the editors of the MGH and Jean Devisse, “Essai sur l'histoire d'une expression qui a fait fortune: *consilium et auxilium* aux IXe siècle,” *Le Moyen Age* 74 (1968): 179-205.

<sup>238</sup> See Nelson, “Legislation,” 97, and Nelson, “Translating,” 96-99. For her more cautious appraisal, see Nelson, “Literacy,” 289.

<sup>239</sup> Nelson, “Translating,” 93.

<sup>240</sup> Wormald, “*Lex scripta*”, pg. 118 n. 73.

the German, intensified in the 850s, particularly after the death of Lothar in 855.<sup>241</sup> Their rivalry culminated in the invasion of Charles' realm by Louis in 858, when the *Annals of St.-Bertin* assert that Charles' own counts invited Louis into West Francia.<sup>242</sup> The reasons for this invitation were likely complex. The *Annals of St.-Bertin*, written in West Francia, provide no clear motivation for the counts' betrayal. The East Frankish *Annals of Fulda*, however, are quite explicit in this regard. The counts sent Louis a request for aid because Charles had failed not only to make "even a show of resistance" to the pagan raiders plundering their land, but also had imposed his own "tyranny" (*tyrannidem*) on the people of the area.<sup>243</sup>

It is not entirely clear what this reference to tyranny entailed, though it seems likely that Charles was imposing his authority in a way the rebellious counts felt inconsistent with his apparent lack of effort in protecting the area. The 850s had seen a notable increase in the frequency and size of Viking attacks; if Charles was developing a weakness in his response to the Northmen, it could have encouraged his nobles to look elsewhere in the Carolingian family for protection and patronage.<sup>244</sup> Another possible impetus for the defection of Charles' supporters was his redistribution of power in Neustria in the mid-850s. He needed to keep his followers happy with his patronage; in other words, they needed to feel his grants of power and land fairly rewarded their loyalty. He had granted his own son, Louis (the Stammerer), the duchy of Le Mans in 856, an act which disturbed the balance of power in Loire basin.<sup>245</sup> The act was soon followed by the defection of Robert the Strong (d. 866),

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<sup>241</sup> The death of Lothar's son, Lothar II, in 869, would temporarily increase tensions between Charles and Louis again, but no open conflict would break out (*AB* 870, pg. 165-170)

<sup>242</sup> *AB* 858, pg. 88. For a discussion of Louis' invasion, see Goldberg, *Louis*, 251-258, and Nelson, *Charles*, 188-191. Nelson gives surprisingly little attention to Louis' actual invasion, instead focusing on the event (namely, Louis' failure) as the point from which Charles' fortunes began to change for the better in the 860s.

<sup>243</sup> *AF* 858, pg. 41-42.

<sup>244</sup> For an overview of Viking activity in Francia in the 850s, see Vogel, *Die Normannen*, 128-178.

<sup>245</sup> *AB* 856, pg. 90.

who held the countship of Angers and was a powerful figure in the lower Loire region.<sup>246</sup> He remained a key figure in the aristocratic resistance to Charles in the late 850s and during Louis the German's invasion, though Charles and Robert would make peace in 861.<sup>247</sup> The call for Louis' aid in 858 was likely the result of a mixture of internal politics and unchecked Viking aggression.

The king's Viking problem and Carolingian rivalry cannot be separated, as Charles needed the support of his nobles and high clergy in both struggles. His legitimacy required acknowledgement of his authority by the great men of his realm, and his power rested on his ability to extract resources and manpower from his supporters. When Louis invaded in 858, many of Charles' supporters abandoned him. Charles managed to recover and drive Louis out the next year, but it was not a confidence-inspiring victory.<sup>248</sup> Charles' kingdom was saved, in large part, due to the intercession of the *potentes* of the church, Hincmar of Rheims at their head. Most West Frankish bishops had refused to support Louis' invasion.<sup>249</sup> With Charles rallying support in Burgundy and the West Frankish church withholding approval of Louis' *coup d'état*, Louis apparently believed his position to be precarious. He withdrew east, and Charles was able to retake his kingdom without any shedding of blood.

Despite Louis' failure, the events of 858 had revealed a number of fissures in the foundation of Charles' authority. Clearly, he had stretched the loyalty of many of his lay supporters to the breaking point, and his ecclesiastical support, instrumental in 858, was in danger every time he was forced to buy off a Viking band. This was a precarious position,

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<sup>246</sup> See Nelson's note at *AB* 856, pg. 82. n. 6.

<sup>247</sup> Nelson, *Charles*, 182-184, 195-196. Some Franks and Aquitanians, including Robert, had attempted to induce Louis the German to invade in 856, but he was caught up in a campaign against the Slavs at the time and did not answer their call. See *AB* 861, pg. 95, for their reconciliation.

<sup>248</sup> See the corresponding entries for *AB* 858 (pg. 88-89) and 859 (pg. 89).

<sup>249</sup> *AB* 858, pg. 88-89. Nelson, *Charles*, 188-189. For Hincmar's letter to Louis, in which the archbishop avoids offering Louis his support, see MGH, *Conc.* III, no. 41, pg. 403-427.

given the increase in Viking attacks in the 850s.<sup>250</sup> Charles had taken to giving *tributum* to Viking bands he could not drive off, essentially buying them off. It was an effective tactic, but not endearing to those forced to contribute to the payment.<sup>251</sup> The church carried much of the burden for raising the *tributum* at this time. The *AB* states that the ransom for an abbot captured by the Vikings in 858 forced the king to raise a great deal of money, by which “many church treasuries in Charles’s realm were drained dry”.<sup>252</sup> The same year, Hincmar, the champion of Charles’ cause against Louis, wrote that the realm should be “rescued from undue tribute”.<sup>253</sup>

If Charles could deal effectively with the threat of the Northmen, it would have a positive impact on his relationships with his supporters, leaving him more capable of acting in the event of another confraternal conflict. In order to keep the loyalty of the clergy and aristocracy and protect his own royal authority, Charles needed to demonstrate his ability to maintain the security of the realm. Though the need was clear, the means was not. However, an almost incidental discovery in 862 paved the way for Charles’ strategy for the next decade and a half. A Viking force moving up the Marne destroyed a bridge at Isles-les-Villenoy. The king repaired the bridge behind them, trapping them upriver and forcing them to surrender hostages to the king. He had found a new tool to employ against the Northmen. Bridges, if properly fortified and manned, could prevent the rapid passage of raiding groups by ship.

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<sup>250</sup> Nelson, *Charles*, 181.

<sup>251</sup> Simon Coupland, “The Frankish Tribute Payments to the Vikings and Their Consequences,” *Francia*, vol. 26 no. 1 (1999): 57-75. For a discussion of Frankish use of *tributum*, see also Einar Joranson, *The Danegeld in France* (Rock Island, IL, 1923).

<sup>252</sup> *AB* 858, pg. 86.

<sup>253</sup> From MGH, *Conc.* III, no. 41, c. 6, p. 412, quoted in Nelson *Charles*, 188.

Later that year, Charles began the construction of the first “bridge fortifications” on the Seine, at Pîtres.<sup>254</sup>

Charles needed to meet both an immediate and a long-term set of goals, and a focus on physical infrastructure, particularly fortified bridges, addressed both of those needs. In the short term, to deal with whatever Viking groups who appeared on the rivers to menace the realm in the upcoming years, he needed to limit Viking mobility and augment his own.<sup>255</sup> In the long term, he needed to secure his own position against Carolingian intrigue and maintain his legitimacy as an effective king, defending his realm against all attackers. The clearest expression of his goals is set forth in the Edict of Pîtres. The document focuses heavily on infrastructure and mobility. Mobility was key in effectively combating the Northmen’s raids.

The Edict and the related actions undertaken by Charles in the 860s and 870s represent a long-term strategy actively followed by the king. Charles’ actions, evident especially in the text of the Edict, clearly show that he had a matrix of priorities in his risk assessment and response to a multitude of threats.<sup>256</sup> While Charles’ strategy was not limited to bridge construction and fortification, they constituted the most radical changes in his approach. As noted above, he discovered the efficacy of the tactical use of bridges in 862,<sup>257</sup>

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<sup>254</sup> For the account of the event, see *AB* 862. For the identification of the site of the bridge as Isles-les-Villenoy, see Coupland, “Bridges,” 2.

<sup>255</sup> Of great importance to this distinction is the Viking reliance on water transport, and the lack of a real Carolingian naval presence. If they had parallel requirements for increased mobility, bridges and roads would have facilitated the Northmen’s movement as much as it did their Carolingian opponents. For the lack of an anti-Viking Carolingian fleet, see Simon Coupland, “The Carolingian Army and the Struggle against the Vikings,” *Viator*, vol. 35 (2004): 51. For Charles’ novice attempts to engage the Vikings on the Seine, see Coupland, “Army,” 63-64. See Bachrach, *Early Carolingian Warfare*, 247-257, for a discussion of the limited nature of earlier Carolingian naval capability.

<sup>256</sup> See Bachrach, *Early Carolingian Warfare*, 1-5, for a discussion of long-term strategy. He defines it as “the conscious imposition of a matrix of priorities rather than a mere haphazard response” (5).

<sup>257</sup> He acknowledged his inspiration for the work ordered in 864 in the *Adnuntiatio* of the Edict of Pîtres (MGH, Cap., II, no. 273, section 2, pg. 311).

and he wasted little time in implementing it on the Seine, the major fluvial avenue into his territory from the Atlantic coast. Charles ordered fortifications built on the Seine near Pîtres, at a site now identified as Pont-de-l'Arche,<sup>258</sup> near the confluence of the Andelle and Eure rivers. It was an ideal site for the bridge, as it served as a gateway to the heartland of his realm. Placing it downriver of the two tributaries locked off most of the Seine basin, and it made it more difficult for Vikings to link up with raiders on the Loire, as the Eure dipped south toward the other river basin.<sup>259</sup>

Charles made a similar commitment in the Loire basin a few years later with the construction of another fortified bridge. This fortification has received much less attention, due, in part, to the lack of archaeological excavation, but the Loire also was a major avenue utilized by the Northmen attacking West Francia. An undefended Loire river valley laid open Aquitaine and southern Neustria to Viking attacks, and both areas had been a source of problems for Charles for years.<sup>260</sup> A likely site for the fortified bridge was Les Ponts-de-Cé, a site near Angers. Charles could have fortified a Roman bridge known to have been in place there.<sup>261</sup> There is no firm evidence for when Charles undertook this second fortification project. This bridge is referenced in the Capitulary of Quierzy from 877, in which it is mentioned in the same phrase as the bridge near Pîtres. The document orders repairs of forts on both banks on both the Loire and the Seine, so the Loire bridge was clearly in place

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<sup>258</sup> Brian Dearden and Anthony Clark, "Pont-de-l'Arche or Pîtres? A location and archaeomagnetic dating for Charles the Bald's fortifications on the Seine," *Antiquity*, vol. 64 (1990): 567-571.

<sup>259</sup> Gillmor, "Logistics," 89.

<sup>260</sup> Aquitaine had been a problem area since Charles received the *regnum*, before Louis the Pious' death. See Martindale, "Aquitaine," 115-138, for an analysis of Charles' problems in Aquitaine. When Charles had taken over the kingship of Aquitaine in 839, he had to deal with supporters of the disinherited son, Pippin II, of the former king of Aquitaine, Pippin I (*AB* 839, pg. 46; and Nelson, *Charles*, 101-104). Unruly subjects in this region had invited Louis the German to invade on at least two occasions (*AB* 853, 856). Neustria was a source of discontent leading up the Louis the German's invasion of 858.

<sup>261</sup> See Coupland, "Bridges," 9-10; and Lot, "Le pont," 2. Raymond Chevallier, *Roman Roads*, trans. N.H. Field (Berkeley: University of California Press, 1976), 99, attests to a Roman bridge there.

by the end of Charles' reign.<sup>262</sup> The Vikings continued to raid on the upper reaches of the Loire until 873, when Charles successfully besieged a Viking group occupying Angers. It is likely that he constructed the defenses—or at least finished them and garrisoned the fortifications—around this time, as the upper Loire remained free of Viking activity for some years after this date.<sup>263</sup> While we do not have the direct evidence for the Loire project that we have regarding the Seine bridge, if even a portion of the effort and resources that characterized the Pont-de-l'Arche site went into these fortifications, it provides convincing evidence of Charles' resolve to secure his realm against the Northmen.<sup>264</sup>

Charles was defending his kingdom by the only means available to him. The east was porous; the great men of the Carolingian empire held land in multiple kingdoms, and there was no clear boundary that delineated the whole of Charles' border with Lothar, then Louis the German. The Carolingians still considered the *regnum Francorum* a whole, made up of temporarily separated parts, rather than distinct kingdoms ruled by unconnected kings.<sup>265</sup> Conflict was constant, and transportation and communication were slow. With opponents assailing him on multiple fronts, the king needed to secure his subjects' loyalty and his realm's security. The Vikings threatened both, so Charles formulated a long-term strategy to limit their access to his kingdom and improve his own ability to react. His brush with

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<sup>262</sup> MGH, Cap., II, no. 281, c. 27, pg. 355-361. Apart from providing evidence for the Loire bridge, the capitulum shows Charles' continued dedication of resources to the infrastructure he had constructed.

<sup>263</sup> Coupland, "Bridges," 9-10.

<sup>264</sup> Much of the scholarship dealing with the fortified bridges of Charles the Bald has counted more than two such bridges, but Coupland, "Bridges," 1-2, has shown that the king likely only fortified the two listed above, on the Seine and Loire, and repaired or rebuilt a number of other, non-fortified crossings.

<sup>265</sup> See Nelson, *Charles*, 2-4, for a discussion of the term *regnum* and the implications of the interchangeability of the term for both sections of the Carolingian empire and the whole territory. This idea of unity is underlined by the constant attempts of various Carolingians to expand their own holdings at the expense of their fellow dynasts and their desire for the imperial mantle. The Carolingians of the post-Verdun generation were essentially looking inward for expansion of their realm, instead of beyond the borders established by Charlemagne. Even Louis the German, who shared a long eastern border with the Slavic peoples, was focused on what Goldberg has termed the "*Drang nach Westen*" (Goldberg, *Louis*, 233-262).

disaster in 858 convinced him to reorient the military resources of the realm toward physical infrastructure. Charles the Bald was performing a balancing act unlike any Carolingian before him. His strategy brought much of his realm a decade of relief from the Vikings' fluvial attacks, and his success within the Carolingian empire is attested by his attainment of the imperial title in 875.

### **The Edict in scholarship**

Charles and his faithful men created the Edict shortly after this intersection of external and internal threats to his royal authority. It is commonly cited in the scholarship on royal power and consensus, presented above. Considering the bold claims Charles makes in the document, it is unsurprising that it has become a source of contention in the debate on later Carolingian royal authority. I will not retread the ground I have already covered on those larger issues, but I will present a few scholarly perspectives particularly relevant to this capitulary. I will also address the results of the orders issued in this prescriptive document, to see if we can determine if the Edict's precepts were obeyed.

As my discussion of the historical context of the Edict shows, the decree emerged from a period of instability in West Francia. The Carolingian empire of the mid-ninth century was riven with dynastic competition and civil war. Charles' West Francia in the 850s faced a particularly potent mix of aggression from the Vikings, Frankish nobility, and other members of the Carolingian family. The Edict was an attempt to restore stability to Charles' kingdom across a wide spectrum of problems. Historians have been divided on how the Edict was meant to accomplish that restoration.



As demonstrated above, consensus is often interpreted as shorthand for weakened royal power, and scholars have used the Edict's regular of usage consensus-related language to argue that Edict reflects a weakening royal authority. Ganshof portrays the Edict as a compromise between the king and the aristocracy, in which the king accepts the conditional nature of his authority in order to restore stability to the realm.<sup>266</sup> The Edict is, therefore, a concession of royal power for the purpose of bringing some measure of order back to the administration of the kingdom.

The view of the Edict as a sort of compromise, at the king's expense, focuses on the means by which the decree was formulated—the assembly—rather than the actual mandates of the document. Other scholars have emphasized these tenets to exhibit an expansion of royal power, in terms of claims on labor and service among the population.<sup>267</sup> Gillmor argues that the Edict represents a reorganization of service expectations among small land-holding farmers, who lacked the means to participate in military campaigns. Charles was able to call upon the lowest levels of the military service hierarchy to fit the changing needs of the realm, particularly labor service for bridge fortifications. Gillmor's focus is on the change in labor mobilization in response to Charles' construction at Pîtres, but her work highlights the structural changes the king is able to make in service dues among the lowest level of his free population.<sup>268</sup>

Halsall is more explicit in his analysis of the Edict's implications for royal authority. He argues that the Edict was “an attempt to re-establish direct links between the king and lesser

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<sup>266</sup> Ganshof, *Recherches*, 36-37.

<sup>267</sup> See Gillmor, “Small free farmers”, 38-47; and Guy Halsall, *Warfare and Society in the Barbarian West*, 450-900 (London, 2003), 99-100.

<sup>268</sup> Gillmor, “Small free farmers,” 38-47.

landlords and freemen”.<sup>269</sup> Charles wanted to strengthen his own power base, separate from that of the aristocracy. His plans for fortified bridge construction supported this goal, as the new structures were to be the center of a defensive system built on royal orders with labor service owed to the king.<sup>270</sup> In Halsall’s depiction, the king is actively defending his authority, and even making inroads on aristocratic power. While Halsall’s argument still presents a problematic adversarial relationship between king and nobility, as discussed in the above section on royal authority, he identifies a key theme of the Edict: royal claims on realm-wide service obligations.

Ultimately, these arguments do not have much relevance if the capitulary’s creation was not followed by execution. Prescriptive documents have limited utility without corroborating evidence for actual action. For the Edict, we have this evidence for some of the most significant aspects of the decree as a result of the efforts of archaeologists and numismatists. Excavations at Pont-de-l’Arche, the site identified as the location of the fortified bridge near Pîtres, have revealed the physical remains of Charles’ fortification efforts.<sup>271</sup> While Charles’ bridge is no longer in place, a twelfth century replacement, which gives the site its name, is still there. Some preliminary examinations of the site have generated an outline of the construction work done there by Charles.<sup>272</sup> Hassall and Hill, in an initial survey of the area, suggest that an uncovered, circular thirteenth-century enceinte follows the previous fortification put in place by Charles, encompassing the bridgehead on the south side of the

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<sup>269</sup> Halsall, *Warfare and Society*, 99.

<sup>270</sup> Halsall, *Warfare and Society*, 99-100.

<sup>271</sup> For the location of the bridge, see Lot, “Le Pont de Pîtres,” 22; and Coupland, “Bridges,” 4.

<sup>272</sup> A number of archaeological studies have been done on the site at Pont-de-l’Arche. See J.M. Hassall and D. Hill, “Pont de l’Arche: Frankish influence on the West Saxon burh?” *Archaeological journal* 127 (1970), 188-195; Brian Dearden and David Hill, “Charles the Bald’s bridgeworks at Pîtres (Eure): Recent investigations at Pont-de-l’Arche and Igoville, an interim report,” *Haute-Normandie archéologique* 1 (1988), 63-69; Brian Dearden, “Charles the Bald’s fortified bridge at Pîtres (Seine): recent archaeological investigations,” in *Anglo-Norman Studies* 11 (1989), 107-112; and Dearden and Clark, “Pont-de-l’Arche or Pîtres?” 567-571.

Seine, though the thirteenth century structure destroys any remnants of what came before. On the north bank, there are the remains of a rectangular earthwork, known as ‘Le Fort’, which protected the bridgehead.<sup>273</sup>

Though Hassall and Hill’s work outlined several key structures in the Seine fortifications, they could not provide a sound dating window for the modifications to the landscape. Dearden and Clark were able to rectify that in their article on archaeomagnetic dating, which can determine the date iron compounds were heated using direction of the geomagnetic field at the time. Using the reference curve for the technique from a site in Britain, they were able to determine that clay from the rampart of Le Fort had been fired within a few decades of 860 AD, putting it within an acceptable window for Carolingian construction.<sup>274</sup> The archaeological reports show the impressive scope of the project. The early medieval Seine is estimated to have been significantly wider than the river today; the Seine was approximately 430 meters across, compared to today’s 200 meters.<sup>275</sup> Maintaining a bridge of that span must have been a significant endeavor, and periodically blocking off river traffic across such a distance, even more so.

Charles’ coinage reform takes up a significant section of the Edict, from *capitulum* 8 to *capitulum* 24. Though the valuable metals in coins often mean their physical durability is rendered irrelevant due to reuse of the metal, we have enough hoard evidence and individual finds to draw some important conclusions about the ninth-century economy. Metcalfe argues that West Francia under Charles had a monetary economy. Charles’ realm enjoyed a much more developed economy than that of his brother, Louis the German, though he had

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<sup>273</sup> Hassall and Hill, “Pont-de-l’Arche,” 194.

<sup>274</sup> Dearden and Clark, “Pont-de-l’Arche or Pîtres?” 569.

<sup>275</sup> Gillmor, “Logistics,” 91, uses the diagrams provided in Hassall and Hill “Pont-de-l’Arche,” 193 fig. 4, to make the estimate on the Seine’s ninth-century width.

failed to exercise much control over his mints and coinage in the first two decades of his reign.<sup>276</sup> Hoard data shows that there was a great deal of interregional circulation of coins in the last ten to fifteen years of Charles' reign. Many of the coins from a hoard found near Compiègne, about 65 km northeast of Paris, were oboles or half-deniers, denominations only useful as small change, as would be needed in day-to-day transactions.<sup>277</sup> Coins saw heavy use, and control of their production and circulation was an important marker of royal power. For the first twenty-four years of Charles' reign, there was both a proliferation of coinage types in West Francia, and a severe trend toward debasement. The reasons for this—primarily the correlation with Viking activity—is controversial, but what is clear is that Charles had lost the thorough control exhibited over mints for most of Louis the Pious' reign.<sup>278</sup>

The Edict of Pîtres' reforms addressed both issues. A comparison of coins issued before and after 864 show a much higher percentage of silver in the coins minted after the Edict. It also highlights the unitary royal control over the design and minting process. The design stipulated in *capitulum* 11, known among numismatists today as the GDR (*Gratia Dei rex*) coinage, became ubiquitous.<sup>279</sup> Hoard evidence from West Francia reveal Charles' ability to control monetary trade; a number of major hoards contain no foreign coinage. It was likely that he was able to tax both exchange of coins at the time of his monetary reform and conversion of foreign coins by taking a cut during the re-process.<sup>280</sup>

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<sup>276</sup> See Goldberg, *Louis*, 204, for the usage of money in East Francia. See Simon Coupland, "The Early Coinage of Charles the Bald, 840-864," *The Numismatic Chronicle*, vol 151 (1991): 155.

<sup>277</sup> D.M. Metcalf, "A sketch of the currency in the time of Charles the Bald," in *Charles the Bald: Court and Kingdom*, ed. Margaret T. Gibson and Janet L. Nelson (Oxford, 1981), 53-84.

<sup>278</sup> See Coupland, "Early Coinage," 121-155, for a survey of this period.

<sup>279</sup> MGH, Cap., II, no. 273, pg. 315. See Grierson, "GDR coinage," 39-51. The GDR coin does not match the specifications of the *capitulum* exactly: instead of Charles' name on the observe, the coin has the *Gratia Dei rex* inscription.

<sup>280</sup> Nelson, *Charles*, 33-35.

One aspect of the reform that does not match the Edict is the number of mints. *Capitulum* 12 specifies ten mint sites to meet the needs of the new reform, but over a hundred mints were active over the last thirteen years of his reign.<sup>281</sup> A number of reasons have been suggested for this increase, including the realities of the logistics of the re-coinage, a distinction between place of minting and place of issuance, and the requirements of good silver coinage for Viking tribute payments over the following decade.<sup>282</sup> It could have been simply a matter of economic demand, if trade increased significantly enough to require such a substantial growth in mints. What is important for our purposes is that the proliferation of mints does not seem to indicate a lack of royal control, but rather an expansion of the Edict's terms to account for the requirements of the re-coinage. With his kingdom-wide reform, the king was providing a more reliable coinage, while collecting a realm-wide tax on coins re-minted in the new form.

We cannot say that all of the Edict's *capitula* were successfully enacted, but the sections we can verify with physical evidence have shown Charles' ability to put his plans into action. The Edict is not just the culmination of the Carolingian legal tradition; it is also evidence of the continued power of the Carolingian dynasty into the second half of the ninth century. The document preserves a snapshot of the most pressing issues facing both Charles and the nobility of West Francia. It also provides important evidence on how the political and social relationships of the Frankish elite translated into legislation and collective action.

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<sup>281</sup> MGH, Cap., II, no. 273, c. 12, pg. 315. See the map of mint locations on Metcalf, "A sketch of the currency," 71.

<sup>282</sup> See Grierson, "GDR coinage," 43-48, for a discussion of the discrepancy.

## Conclusion

A capitulary represents an entry point into a political moment. It is a written testament of royal desires, and it preserves some of the workings of consensus politics. As an instrument of royal power, it shows us how the center maintained connections with the regional and local levels. The contents of a capitulary reveal the most pressing religious, social, and political issues of the day, as well as the efforts of the powerful to address those issues. When we can pair a capitulary with some knowledge of its reception, it provides a great deal of insight into the workings of early medieval politics. More than anything else, capitularies were interventions by the center. By the time of Charles the Bald, capitularies were promulgated at an assembly. The king, backed by the consensus of his *fideles*, was able to exert his authority on particular matters in localities across his kingdom. They were a show of his power, and, as such, they were created on the most important stage in Carolingian politics: the assembly.

In a document such as the Edict of Pîtres, the *capitula* contain both displays of royal power and attempts to protect the legitimacy of that power through consensus. As such, capitularies have been a source of much historiographical contention. Their use by scholars informs arguments on royal power, relationships with the nobility, and the nature of consensus politics. Charles the Bald, in particular, has been targeted as a key player in the decline of Carolingian authority. Recent scholarship, however, has shown that this narrative of decline is exaggerated, and that Charles was still very much able to exert his power throughout West Francia. His capitularies, particularly the Edict, had real effects on the kingdom. He was able to extract resources and martial them for the particular goals expressed at the assembly of that year.

The Edict of Pîtres emerged from a time of great stress in Charles' reign. He had nearly lost his kingdom just a few years earlier, and his realm was still under frequent attack by Viking raiders. The Edict reveals the extraordinary efforts of the king and his followers to secure his position from outsiders and fellow Franks alike. It was an assertion of his authority across a wide range of issues, but of greatest importance were the sections on coinage and on allotment of military resources. Charles successfully instituted a realm-wide recoinage and maintained a monopoly on minting for the rest of his reign. Through a reorientation of his military resources toward physical infrastructure, he managed to reduce the Viking threat and secure his own position. The Edict was statement of the power of Charles the Bald, and it remains an example of the effectiveness and flexibility of the capitulary.

## **Part II: Text and Translation**

### **Edict of Pîtres**

June 25, 864



The Latin text for the Edict of Pîtres used for this translation is from the *Monumenta Germaniae Historica* edition, edited by Boretius and Krause.<sup>1</sup> I have placed the Latin and English alongside one another for ease of comparison. The texts are aligned by *capitula*, not by line. In cases when a term has no precise English translation, I have left the Latin within the English text. The glossary, provided at the end of the text, provides a brief definition of each term left untranslated, as well as a number of other important terms and concepts from the Edict. Place names have been translated into their modern French analogues. Words in parentheses ( ) indicate where I added words, implied in but omitted from the Latin text, for the reader's clarification.

Footnotes are used primarily for identification of citations and references to past decrees and legislation within the Edict. I have also made note of biblical quotations and other references to ecclesiastical sources, passages where my choice of English translation may need clarification, and places where parts of the manuscript tradition contain a significant divergence.

One appendix follows the translation. In the provided table, I give a list of prior decrees referenced or quoted within the Edict. Most of these come from the capitulary collection of Ansegisus, abbot of St.-Wandrille.<sup>2</sup>

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<sup>1</sup> See note 16 in part I for discussion of extant manuscripts of the Edict.

<sup>2</sup> See section on pg. 16-17, above, for a discussion of his collection.

**(A) Adnuntiatio domni Karoli apud Pistas**

1. Multas gratias vobis agimus de vestra fidelitate et de vestra bona voluntate, quam semper erga nos in omni adiutorio et obsequio demonstratis, sicut vestry antecessores erga nostros antecessores demonstraverunt; et quia pacem, quam iam praeterito tertio anno hic communiter confirmavimus et ad cognitari fecimus, secundum quod causa in quibusdam locis coniacuit, etsi non omnes, sicut desideravimus, tamen ex maiori parte observastis, et quia pleniter et cum pace ad hoc nostrum placitum convenistis.

2. Et quia bonam voluntatem vestram in istis et in aliis videmus et experti sumus, fiducialius vos commonemus, ut et de ipsa pace observanda et de istis operibus, quae

**(A) Announcement of lord Charles at Pîtres**

1. We give many thanks to you for your fidelity and good will, which you always demonstrate towards us in every aid and service, just as your predecessors demonstrated towards our predecessors; and because the greater part of you—though not all of you, as we desired—observed the peace, insofar as in those areas in which the responsibility was in place (to do so), which we confirmed generally and caused to be proclaimed in this place two years ago,<sup>3</sup> and because you came together to our assembly fully and peacefully.

2. And that we see and have tested your good will in those matters and in others, and we confidently remind you that on account of both that same peace which

<sup>3</sup>See MGH, *Cap.*, II, no. 272, pg. 302-310. The Latin phrase used is *iam praeterito tertio anno*, indicating that it is entering the third year after mandate issued two years prior. See note 5.

contra Dei et sanctae eius ecclesiae et  
 nostros communes inimicos Nortmannos  
 incepimus, sine defectu et lassatione  
 viriliter laboretis scientes, qualiter nobis  
 placuisset, si istas firmitates hic factas  
 habuissemus, quando in tali angustia, sicut  
 experti estis, ad Meldis contra eos  
 communiter laboravimus, unde nos Deus,  
 sicut suae misericordiae placuit, manifesto  
 suae clementiae indicio adiuvavit.

3. Et quoniam illa, quae iam tertio anno hic  
 una cum consensu et consilio fidelium  
 nostrorum constituimus et vobis  
 adcognitari fecimus, libenter audisse et  
 suscepisse comperimus, quae nunc etiam  
 ad nostram communem salutem et pacem  
 atque honorem hic fidelium nostrorum

must be observed and those works we  
 undertake against the Northmen, (who are)  
 both our common enemies and the  
 enemies of God and His holy church, you  
 skilled men are to labor vigorously without  
 failure and (without) rest, just as it would  
 have pleased us, if we had had made those  
 fortifications in this place, when we  
 labored together near Meaux<sup>4</sup> against them  
 in such difficulties, as you experienced,  
 from which time God, as it satisfied His  
 mercy, aided us with clear proof of his  
 compassion.

3. And because we wish to make known to  
 you in writing those things, which two  
 years ago<sup>5</sup> with the consensus and counsel  
 of our *fideles* we decreed and caused to be  
 proclaimed to you (and that) we gladly find  
 (you) to have heard and to have  
 undertaken, and which, indeed, we now

<sup>4</sup>See *AB* 862, pg. 98.

<sup>5</sup>See *MGH, Cap.*, II, no. 272, pg. 302-310. See note 3.

consensu atque consilio constituimus, vobis per scriptum nota facere volumus, ut illa plenius audire et ad illud scriptum recurrendo, quod in singulis comitatibus dari et relegi atque haberi praecipimus, firmiter retinere et certius observare possitis. Quae etiam ab episcopis vel eorum ministris per singulos comitatus de eorum parochiis aperto sermone, ut ab omnibus possint intelligi, tradi volumus.

### **(B) Edictum**

Karolus gratia Dei rex. Notum esse volumus omnibus Dei et nostris fidelibus, quoniam haec, quae sequuntur, capitula nunc in isto placito nostro anno ab incarnatione domini nostri Iesu Christi DCCCLXIV, anno videlicet regni nostri

decree here towards our general safety and peace and honor with the consensus and counsel of our *fideles*, so that you may be able to understand it more fully and have recourse to its written form, which we order to be given and reread and considered in each of the counties, and so that you may be able to retain it more loyally and heed it more reliably.

Furthermore, we wish these things to be delivered by the bishops or their agents in each county down to their dioceses with a public speech, so that they may be able to be understood by all.

### **(B) Edict**

Charles, king by the grace of God. We wish to make it known to all men of God and to our *fideles*, since we decree these *capitula* which follow now in our assembly in the year 864 after the incarnation of our lord Jesus Christ, that is in the propitious

ipso propitio XXV. indictione XII, VII  
Kalend. Iulias in hoc loco, qui dicitur Pistis,  
una cum fidelium nostrorum consensu  
atque consilio constituimus et cunctis sine  
ulla refragatione per regnum nostrum  
observanda mandamus.

1. Primo consideravimus de honore  
ecclesiarum et sacerdotum ac servorum  
Dei et immunitate rerum ecclesiasticarum,  
ut nullus sibi de ipsis rebus contra  
auctoritatem praesumat; et ‘comites  
episcopis et ministries ecclesiae in eorum  
ministeriis adiutores in omnibus fiant’,  
sicut in capitulari praedecessorum ac  
progenitorum nostrorum continetur, in  
secundo libro, capitulo XXIII; et  
quicumque comitum vel ministrorum rei  
publicae haec, quae mandamus, observare  
neglexerit, si prima et secunda vice de his

twenty-fifth year of our rule, in the twelfth  
indiction, on the seventh of Kalends of  
July<sup>6</sup> in this place, which is called Pîtres,  
together with the consensus and counsel  
of our *fideles*, and we command to all that  
they be observed without any opposition  
throughout our kingdom.

1. First we reflected on the *honor* of  
churches and priests and the servants of  
God and the *immunitas* of ecclesiastical  
lands, so that no one may presume,  
regarding these matters, for themselves  
against (our) authority; and ‘counts are  
made supporters in all things to bishops  
and servants of the church in their  
*ministeria*’,<sup>7</sup> just as is preserved in the  
capitulary of our predecessors and  
ancestors, in the second book, twenty-third  
*capitulum*; and whoever of the count or  
servants of the realm would neglect to

<sup>6</sup>June 25.

<sup>7</sup>Ansegisus, II, c. 23, pg. 540.

admonitus non se correxerit, volumus, ut negligentia comitis ad nostram notitiam per episcopos et per missos nostros deferatur et aliorum negligentia per comites ad nostram notitiam perferatur, ut nostra auctoritate, quod in capitulari praedecessorum nostrorum continetur, subire cogantur.

2. Post haec de orfanorum et viduarum causis et de regalibus iustitiis et summopere de raptoribus puellarum et viduarum et sanctimonialium et de his, qui presbyteros flagellare praesumunt, et qui presbyteros de ecclesiis sine episcoporum consensu eicere vel recipere aut censum de manso vel ex his, quae domnus et genitor noster in suis capitularibus ecclesiis in inmunitate concessit, exigere non timent, et qui censa de rebus ecclesiasticis ad ecclesias

observe these things that we order, if the first and second exchange concerning this warning should not reform them, we wish that the negligence of the count be brought to our notice by the bishops and by our *missi* and the negligence of others carried to our notice by the count, so that they may be compelled to be placed under our authority, as it is preserved in the capitulary of our predecessors.

2. After this, concerning the cause of orphans and widows and concerning royal justice, and especially concerning those who rob girls and widows and religious persons, and concerning these men who dare to strike priests and who do not fear to expel priests from churches without the consent of bishops or to keep back the *census* of a *mansus* or to drive (someone) out from these (holdings), which our lord and father in his capitularies granted in

persolvere detrectant, ut firmiter a missis et comitibus nostris inquirantur et acriter distringantur et plena iustitia inde fiat, secundum quod in capitularibus avi et patris nostri statutum habetur; et ipsi contemptores legum, divinae scilicet et humanae, ad nostram praesentiam legaliter perducantur, ut inde consilio fidelium Dei ac nostrorum commendemus, quid de talibus hominibus sit faciendum, qui nec Deum timent nec contra sanctos canones facere nec legem et praeceptum regium infringere pertimescunt, salva censura ecclesiastica et episcopalis poenitentiae vindicta.

*immunitas* to churches, and who refuse to pay the *censa* concerning ecclesiastical matters to churches, that they are to be investigated vigorously by our *missi* and counts and punished severely. And justice is to be satisfied thusly, according to that which has been established in the capitularies of our grandfather and father.<sup>8</sup> And these same men who disregard the laws, both divine and human, are to be brought into our presence according to the law, so that we may thus order, with the counsel of the *fideles* of God and ourselves, that concerning such men, who neither fear God nor fear greatly to act against the sacred canons or to break the royal law and command, ecclesiastical judgement and the punishment of episcopal penance must be done.

<sup>8</sup>It is unclear what earlier *capitula* are being referenced here. This *capitulum* is very similar to a section from an earlier capitulary issued by Charles himself in 853: see MGH, *Cap.*, II, no. 260, c. 2, pg. 271-272. This 853 *capitulum* also references the “capitularies of (our) grandfather and father”.

3. Ut lex et iustitia unicuique in suo ordine omnibus conservetur, et pacem, quam proxime teste Deo propriis manibus communi consensu confirmavimus, quando hic placitum nostrum habuimus, sic omnes et infra patriam et quando placitum unusquisque venerit et quando redierit et quando necessitas nobis evenerit, ut hostem nostrum adnuntiemus, usque constituta loca secundum consuetudinem et capitula praedecessorum nostrorum observare procuret. Et qui contra hanc confirmationem per contemptum venerit aut quantocius, quod contra hanc confirmationem excessum fuerit, emendare neglexerit, ab episcopis et missis ac comitibus nostris hoc nobis nuntiari mandamus, quatenus tantum Dei nostrum ac totius christianitatis contemptum, sicut secundum leges divinas et humanas

3. That law and justice is to be preserved by all for each and every person according to his own *ordo*, and each is to attend to observing the peace just mentioned, which we strengthened, with God as our witness, with our own hands and with the general consensus when we held our assembly here. Thus (this peace is established) when each man (is) within his *patria* and when he has come to the assembly and when he has returned (home), and when(ever) we have need, so that we may announce our military expeditions, and in between these places according to the custom and *capitula* of our predecessors.<sup>9</sup> And (if) anyone should come against this confirmation (of peace) through (an act of) contempt or, when (an act) has been committed against this confirmation, (if) he should neglect to correct (that error) quickly, we order this to

<sup>9</sup>It is unclear what earlier *capitula* are being referenced here. The MGH editor draws attention to a similar reference in a *capitulum* at the meeting between Charles and Louis the German at Koblenz several years earlier (MGH, *Cap.*, II, no. 242, c. 6, pg. 158).



invenerimus, emendare curemus, ne ipso nostro iudicio a Deo, quod absit, condemnati simus. Et videant episcopi et missi ac comites nostri, ne, si contra nostram communem confirmationem aliquis per contemptum fecerit et emendare noluerit, per alium, quam per illos, qui ad hoc constituti sunt, hunc contemptum sciamus; quoniam si per alium, quam per illos hoc, sicut non convenit, audierimus, sicut nec ipsi immunes a peccato erunt, sic nec ab ultione immunes existent.

4. Volumus et expresse mandamus

be reported to us by bishops and our *missi* and counts, in order that we may arrange to correct such disregard of God and of us and of all of Christianity, as we have found (to have occurred) according to both divine and human laws, so that we may not be condemned for our judgment by God, because He is free (from error). And the bishops and our counts and *missi* are to see (to it), so that, if anyone should act against our common confirmation by (an act of) contempt and should not wish to make emends, we may not know this (act of) contempt by another, rather than by those who have been appointed to this; because if we should hear from another, rather than by (our agents), as is not appropriate, just as they will not be immune from sin, so neither will they prove to be immune from retribution.

4. We wish and expressly command our

comitibus nostris, ut, sicut in XXIV. capitulo secundi libri capitulorum decessorum nostrorum continetur, ‘vassalli nostri nobis et nostrae coniugi famulantes condignum apud omnes honorem habeant, sicut a genitore nostro et a nobis saepe admonitum est’; et sicut ipsi volunt se a nobis honoratos tenere, ita et nobis famulantibus, sicut consuetudo fuit tempore antecessorum nostrorum, debitum honorem exhibeant.

5. Volumus et expresse comitibus nostris mandamus, ut villae nostrae indominicatae, sed et villae de monasteriis, quae et coniugi nostrae et filiis ac filiabus nostris concessa atque donata habemus, quaeque sub immunitate consistunt, cum salvamento et debita reverentia in comitatibus illorum consistent. Sed et quae homines nostri ac illorum illarumque, qui sine ulla differentia

counts that, just as preserved in the twenty-fourth *capitulum* of the second book of *capitula* of our predecessors, ‘our *vassalli* attending us and our wife are to have the appropriate honor among all men, just as has been urged often by our father and us’;<sup>10</sup> and as they themselves wish to hold honorable positions from us and so to serve us, as the custom was in the time of our predecessors, they are to exhibit the appropriate honor.

5. We wish and expressly command through our counts, in order that the *villae* of our demesne and also the *villae* of monasteries, which we recognize (as) having been relinquished and granted both by our wife and our sons and daughters, each, remaining under *immunitas*, are established with the safety and respect owed in the counties of our officials. But

<sup>10</sup>Anseghisus, II, c. 24, pg. 540-541.

et nostri sunt, cum salvamento et debito honore habere possint. Et non ignorent neque obliviscantur comites ac missi nostri nos scire, quod dominorum dominus de se dicit: ‘Honorificantes me honorificabo et, qui contemnunt me, inhonorati erunt.’

6. Et quoniam humana fragilitas proclivior est ad contra iustitiam faciendum, quam ad iustitiam exequendum, et diabolus semper certat, ut fragilitati humanae oculos mentis claudat, ne castigationem Dei videat et semetipsam emendet, sicut ad nos perventum est, quidam leves homines de istis comitatibus, qui devastati sunt a Nortmannis, in quibus res et mancipia et domos habuerunt, quia nunc ibi mancipia et domos non habent, quasi licenter malum faciunt; quia, sicut dicunt, non habent,

also our men and their own men, who are no different and are ours, are to be able to hold (those *villae*) with the safety and honor owed. And the counts and our *missi* are not to ignore nor forget that we know, because the Lord of Lords says concerning this: ‘I shall honor (those) honoring me, and those who despise me shall be despised.’<sup>11</sup>

6. And since human frailty is more inclined to act against justice than to pursue it, and since the devil always strives so that he may cloud the eyes of the mind to human weakness so that (man) may not see the punishment of God and he may not rectify (his error), just as it has reached us that certain unreliable men from those counties which were devastated by the Northmen and in which they had their estates and slaves and homes, because now they do not have their slaves and homes there, freely do

<sup>11</sup>1. Reg. 2,30 (sometimes listed as 1. Samuelis 2,30). Biblical citations refer to the Vulgate.

unde ad iustitiam faciendam adducantur, et quia non habent domos, ad quas secundum legem manniri et banniri possint, dicunt, quod de mannitione vel bannitione legibus comprobari et legaliter iudicari non possunt. Contra quorum malas insidias consensu et consilio fidelium nostrorum statuimus, ut comes missum suum ad illam terram, in qua domos habuit, mittat et eum bannire et mannire iubeat. Et quoniam lex consensu populi et constitutione regis fit, Franci iurare debent, quia secundum regium mandatum nostrum ad iustitiam reddendam vel faciendam legibus bannitus vel mannitus fuit; et sic ipsae res illi iudicio scabiniorum in bannum mittantur, et, si necesse fuerit, ipse in forbannum mittatur, qui ad iustitiam reddendam venire noluerit. Et mandet comes, qui hoc executus fuit, alteri comiti, in cuius comitatu res et mancipia habet, quid inde factum habeat; et ex nostro verbo illi mandet, ut per illa,

evil. Because, as they say, they do not have that from which they are induced to bring about justice, and because they do not have homes, to which according to the law they are able to be sued and to be summoned, they say that they are not able to be sanctioned by means of the laws concerning suing or summoning, or legally to be judged. Against the evil treachery of those men we establish with the consensus and counsel of our *fideles* that the count may send his own *missus* to that area, in which (the accused) had homes, and he may order the *missus* to summon and sue (the accused). And since the law is made by the consensus of the people and the decree of the king, Franks are to swear obedience, because according to our royal mandate summoning or suing was to restore justice or bring it about by means of the laws. And, thus, the matters themselves are to be sent in accordance with the *bannum* to the

quae in suo comitatu habet, illum  
distringat, quatenus ad iustitiam reddendam  
vel faciendam ad suum comitatum redeat.

judgment of the local *scabini*, and, if it  
should be necessary, he, who was unwilling  
to come (to court) to restore justice, is to  
be outlawed. And the count, who had  
carried this out, is to entrust to another  
count, in whose county (the criminal) has  
land and slaves, (with) what he has done  
from that time; and according to our order  
the original count is to entrust (the affair)  
to the other count, so that by that  
(authority) which the latter count has in his  
own county, he may compel that man,  
while the former county is to go back to  
restore or bring about justice to his own  
county.

7. Audivimus etiam, quia huiusmodi leves  
homines in aliis comitatibus depraedationes  
et iniustitias faciant et ad illum comitatum,  
in quo commanent et in quo illas malitias  
non faciunt, factis malitiis in aliis  
comitatibus reveniunt. Unde mandamus et

7. We have heard, furthermore, that  
unreliable men of this kind are pillaging  
and causing injustices in other counties and  
are (then) returning, having done (those)  
wicked deeds in the other counties, to the  
county in which they live and (where they)

comitibus nostris expresse praecipimus, ut illi comites, in quorum comitatibus tales homines iniustitias faciunt, illis comitibus hoc mandent, in quorum comitatibus refugium habent, et una mente unoque consensu et uno certamine ad tales homines comprehendendo se erigant et decertent, ut ecclesiae Dei et ministri eius et servi Dei ac populus pacem et quietem habere possit.

8. Ut denarii ex omnibus monetis meri ac bene pensantes, sicut et in capitulari praedecessorum ac progenitorum nostrorum regum libro quarto, XXXII. capitulo continetur, in omni regno nostro non reiciantur usque ad missam sancti Martini. Et in omnibus civitatibus et vicis

are not doing those wicked deeds. Thus we have commanded and we expressly instruct our counts, so that those counts, in whose counties such men cause injustices, are to entrust this to the counts in whose counties they have taken refuge. And, in order to deal with such men, with one mind and one consensus and one struggle they are to roust and fight them, so that the churches of God and His agents and the servants of God and the people may be able to have peace and tranquility.

8. That *denarii* from all mints, pure and of the correct weight, just as is preserved in the capitulary of our predecessors and royal ancestors in the fourth book, thirty-second *capitulum*,<sup>12</sup> are not to be rejected in the whole of our kingdom up to the Mass of St. Martin.<sup>13</sup> And in all *civitates* and *vici*

<sup>12</sup>As referenced in the MGH notes, this likely refers to “*capitulum* thirty” in the MGH edition of Ansegisus, but the manuscripts consulted for the MGH edition of the capitularies read either “thirty-two” or “twenty-two”. See Ansegisus, IV, c. 30, pg. 641.

<sup>13</sup>November 11.

ac villis, tam nostri indomnicatis, quam et in his, quae de immunitate sunt vel de comitatibus atque hominum nostrorum, sive cuiuscunque sint, per omne regnum nostrum a iudicibus nostri et ab eis, quorum villae sunt, una cum ministris rei publicae secundum quantitatem locorum et villarum tanti ac tales de ipsis incolis et inibi manentibus constituentur, qui inde providentiam habeant, ne boni denarii reiciantur et non nisi meri et bene pensantes accipiantur.

9. Ut illi, qui ex hac causa providentiam habebunt, sacramento iurent, quod, sicut eis ex hac causa iniunctum fuerit, quantum scierint et potuerint, debeant fideliter observare, et illum hominem, quem scierint merum et bene pensantem denarium reicere, non debeant celare, sed ministris

and estates, whether in our demesne or in these (places) in *immunitas* or from (the land in) the counties and (the land) of our men or of anyone else, it is to be decreed throughout our entire kingdom by our *iudices* and by those men whose *villae* they are, together with the agents of the realm, who are (all) to oversee (this process), according to the quantity of locations and the number of *villae* and the number of inhabitants and those remaining there, that good *denarii* are not to be refused and (that) they are not to be accepted unless pure and of the correct weight.

9. That those men, who will oversee (this) as a result of this decree, are to swear an oath, as will be imposed upon them as a result of this decree, that, so much as they will know and will be able, they are to observe (it) faithfully, and they are not to conceal that man whom they know refuses

rei publicae eum debeant notum facere. De quo sacramento quicumque comprobatus fuerit periuratus, et secundum legem mundanam ut periurus puniatur, sicut in capitulari decessorum ac progenitorum nostrorum continetur in fine capituli decimi ex tertio libro, et secundum legem ecclesiasticam publicae poenitentiae subigatur.

10. Ut ab ipsa missa sancti Martini per omne regnum nostrum non nisi istius nostrae nova monetae meri et bene pensantes denarii accipiantur. Et ‘quicumque ab illa die alium denarium negotiandi causa protulerit a comite et a ministris eius auferatur ab eo’, sicut in libro capitulorum secundo, decimo octavo capitulo continetur.

a pure *denarius* of the correct weight, but, in fact, they ought to make him known to the agents of the realm. According to the oath, whoever, having been confirmed (in their oath), perjured himself, he is to be punished according to secular law, as is preserved in the capitulary of my predecessors and ancestors at the end of the tenth *capitulum* from the third book,<sup>14</sup> and according to ecclesiastical law he is to be submitted to public penance.

10. That, from the Mass of St. Martin onward, throughout our entire kingdom no *denarii*, (even) pure and of the proper weight, be accepted unless (it is) from our new coinage. And ‘whoever from that day puts forward another *denarius* while trading, he is to have it taken from him by the count or by (other) agents’,<sup>15</sup> as is preserved in the second book of *capitula*,

<sup>14</sup>Ansegisus, III, c. 10, pg. 576.

<sup>15</sup>Ansegisus, II, c. 18, pg. 535-537.



11. Ut in denariis novae nostrae monetae ex una parte nomen nostrum habeatur in gyro et in medio nostri nominis monogramma, ex altera vero parte nomen civitatis et in medio crux habeatur.

12. Sequentes consuetudinem praedecessorum nostrorum, sicut in illorum capitulis invenitur, constituimus, ut in nulla loco alio in omni regno nostro moneta fiat, nisi in palatio nostro et in Quentovico ac Rotomago, quae moneta ad Quentovicum ex antiqua consuetudine pertinet, et in Remis et in Senonis et in Parisio et in Aurelianis et in Cavillono et in Metullo et in Narbona.

13. Ut hi, in quorum potestate deinceps

eighteenth *capitulum*.

11. That, in regard to the *denarius* of our new coinage, on one side it is to have our name in a circle and, in the middle, the monogram of our name, and on the other side it is to have the name of the *civitas* and, in the middle, a cross.

12. Following the custom of our predecessors, as is found in their *capitula*,<sup>16</sup> we decree that in no other place in our entire kingdom may money be made, except in our palace and in Quentovic and Rouen, whose coinage by ancient custom belonged to Quentovic, and in Rheims and in Sens and in Paris and in Orleans and in Chalon-sur-Saône and in Melle and in Narbonne.

13. That those men, who will hold the

<sup>16</sup>See Ansegisus, III, c. 13, pg. 578.

monetae permanserint, omni gratia et cupiditate seu lucro postposito fideles monetarios eligant, sicut Dei et nostram gratiam volunt habere. Et ipsi monetarii iurent, quod ipsum ministerium, quantum scierunt et potuerint, fideliter faciant. Et mixtum denarium et minus, quam debet, pensantem non monetent nec monetarii consentiant. Et sine ulla fraude et absque malo ingenio contra eos, quorum argentum ad purgandum acceperint, ipsum argentum exmerent et sine fraude tam in pensa, quam in purgatione denarios concambient. Contra quod sacramentum si quilibet fecisse reputatus fuerit, iudicio Dei se examinet; et si contra hoc fecisse comprobatus fuerit, — quia non maiorem fraudem facit, si mixtum denarium et minus, quam debeat, pensantem monetaverit, quam si purgatione et concambio argenti per malum ingenium

power of coinage hereafter, are to choose faithful minters by disregarding all with partiality and greed or avarice, if they wish to have the favor of God and of us. And the minters themselves are to swear, with respect to the office, that they are to perform faithfully as well as they know (how) and are able. And they are not to mint a mixed *denarius* or one weighing less than it ought, nor are they to consent to doing so. And without any deceit or evil trick against those whose silver they accepted for purifying, they are to purify that silver and, without deceit in weighing it, they are to change the purified silver into *denarii*. If it should be reported that anyone has acted against his oath, he is to be tried<sup>17</sup> by the judgment of God; and if it should be proved that he acted against his oath— because he does no greater deceit, if he should mint a *denarius* of mixed metal and

<sup>17</sup>By ordeal or compurgation. See Jan Niermeyer, *Mediae Latinitatis Lexicon Minus* (Leiden, 1976), 386, *examinare se*.

fraudem de argento rei publicae et de argento rerum ecclesiasticarum et de facultate pauperum fecerit,— sicut constitutum est de falsis monetariis in libro IV. capitulorum, XXXIII. capitulo, manum perdat, et ut sacrilegus ac pauperum spoliator publicae poenitentiae iudicio episcopali subiciatur. In illis autem regionibus, in quibus secundum legem Romanam iudicia terminantur, iuxta ipsam legem culpabilis iudicetur.

14. Ut in proximis Kalendis Iulii per hanc duodecimam indictionem habeat in Silvanectis civitate unusquisque comes, in

weighing less than it ought, than if in purifying and changing silver through some evil trick he should cause some deceit concerning the silver of the realm and the silver of church and concerning the resources of the poor—just as it has been preserved concerning deceptive minters in the fourth book of *capitula*, in *capitulum* thirty-three,<sup>18</sup> he is to lose his hand, and as a sacrilegious person and despoiler of the poor he is to be made subject to public punishment by the judgment of the bishops. In those regions, however, in which judgments are restricted according to Roman law, the guilty is to be judged according to that law.

14. That, on the next Kalends of July<sup>19</sup> during this twelfth indiction, each count, in whose *comitatus* we ordered there to be a

<sup>18</sup>As referenced in the MGH notes, this likely refers to “*capitulum* thirty-one” in the MGH edition of Ansegisus, but the Edict manuscripts refer variously to *capitula* 33 or 28. See Ansegisus, IV, c. 31, pg. 641-642. See also note 20.

<sup>19</sup>July 1.

cuius comitatu monetam esse iussimus, vicecomitem suum cum duobus aliis hominibus, qui in eius comitatu res et mancipia vel beneficia habeant, et suum monetarium cum ipsis habeat, quatenus ibi accipiant per manus suas de camera nostra ad opus uniuscuiusque monetarii de mero argento cum pensa libras quinque, ut habeat, unde initium monetandi possit incipere; et pensam argenti, quam ex camera nostra accepit, per manus eorum, per quas illud accepit, per manus eorum, per quas illud accepit, sabbato ante initium quadragesimae in monetatis denariis in praefato loco et cum ipsa pensa, cum qua argentum acceperat, unusquisque monetarius in nostra camera reddat.

mint, is to have in Senlis his *vicecomes* with two other men, who have lands and slaves or *beneficia* in his *comitatus*, and he is to have his minter with those men. While there, they are to take by their own hands from our royal treasury five pounds weight from the pure silver for the use of each minter, so that he may have (the material) from which he is able to undertake the start of minting; and the weight of silver, which he accepted from our royal treasury, by his own hands with which he accepted it, he is to pay back in minted *denarii* at the aforementioned place and with this weight, with which he had accepted the silver, on the Sabbath before the start of Lent.<sup>20</sup>

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<sup>20</sup>The following year.

15. Ut nullus more solito pro ullo lucro vel avaritia hoc leviter accipiat, sed omnes ab ipsis Kalendis Iulii argentum suum in constitutis monetis concambiari faciant scientes, quia post missam sancti Martini nulli alii denarii in regno nostro, nisi istius novae nostrae monetae recipientur et ab ipsis Kalendis Iulii ipsi novi denarii ab omnibus accipiantur. Et ‘quicumque liber homo ab ipso die denarium merum novae nostrae monetae in regno nostro reiecerit’, sicut in praefato libro et capitulo regio continetur, ‘bannum nostrum, id est solidos sexaginta, componat. Si vero servi ecclesiastici aut comitum aut vassallorum nostrorum hoc facere praesumpserint’, quia in praefato capitulari continetur: ‘ut sexaginta ictibus vapulent’, et hac occasione indiscreti homines modum in disciplina faciebant, constituimus cum fidelium nostrorum consensu atque

15. That no one is to take this lightly with the usual habit for any greed or avarice, but they are to make all people aware from this Kalends of July that they are to exchange their silver at the appointed mints, since after the Mass of St. Martin no other *denarii* but that of our new money will be accepted in our kingdom, and from this Kalends of July new *denarii* are to be accepted by all. And ‘whatever free man from that day was to refuse a pure *denarius* of our new money’, as is preserved in the aforementioned book and royal *capitulum*,<sup>21</sup> ‘he is to pay our fine, which is sixty *solidi*. If, however, *servi* of the Church or of the counts or of our vassals should presume to do this’, because it is preserved in the aforementioned capitulary ‘that he is to be beaten with sixty strokes’, and (because) on this occasion they made careless men an example in discipline, we decree with the

<sup>21</sup>Ansegisus, IV, c. 30, pg. 641. See c. 8 for the original reference to this *capitulum*.

consilio, ut, quorumcumque coloni et servi  
 pro hoc convicti fuerint, non cum groos  
 fuste, sed nudi cum virgis vapulent; et in  
 civitatibus atque vici seu villis episcopi per  
 suos ministros vel presbyteros  
 providentiam una cum rei publicae  
 ministris accipiant, ne et in hac causa  
 modus disciplinae transgrediatur, sed taliter  
 fiat, qualiter et homines castigentur, et  
 quasi pro intentione vel occasione  
 castigationis disciplinam facientes  
 peccatum non incurrant et disciplinam  
 sustinentes in corpore suo debiliores non  
 fiant. Quodsi quis hoc mandatum nostrum  
 transgressus fuerit, nobis ab episcopis  
 nuntietur, quatenus taliter castigetur, ne  
 deinceps mandatum nostrum quemquam  
 delectet contemnere. Et ‘si dominus vel  
 magister, qui liber est, aut advocatus talium  
 hominum eos vel comiti vel misso nostro  
 ad disciplinam sustinendam contradixerit  
 vel misso nostro iussus praesentare

consensus and counsel of our *fideles* that  
 whatever *colonus* and *servus* have been  
 convicted for this (crime), they are to be  
 stripped and beaten, not with a large stick,  
 but with rods. And in the *civitates* and  
 villages or in the estates of bishops,  
 (officials) are to accept guidance by their  
 own agents or by priests together with the  
 agents of the realm, and so that the  
 example of discipline may not be  
 transgressed in this case, rather let it be  
 done so that, even as the men are  
 punished, that those men carrying out the  
 discipline do not incur sin for the intent or  
 the occasion of punishment and those  
 sustaining discipline are not made disabled  
 in their body. But if anyone should violate  
 our mandate, it is to be reported to us by  
 our bishops in order that he be punished,  
 so that it may not please anyone to resist  
 our mandate. And ‘if a lord or master, who  
 is free, or the advocate of such men

noluerit, praedictum bannum sexaginta solidorum componat', sicut in praedicto capitulari habetur.

16. Ut, si aliquis homo a proximis Kalendis Iulii de hac nova nostra moneta mixtum vel minus, quam debeat, pensantem denarium invenerit, constringat eum, qui ipsum denarium ad negotiandum protulit, et ipse dicat, a quo eum accepit; et sic de manu ad manum veniat, usque dum ad falsitatis auctorem perveniatur. Et inventus mixti vel minus, quam debeat, pensantis denarii monetator in illa terra, in qua iudicia secundum legem Romanam terminantur, secundum ipsam legem iudicetur; et in illa terra, in qua iudicia secundum legem Romanam non iudicantur, monetarius, sicut supra diximus, falsi denarii manum

refuses to hand them over to a count or our *missus* in order to put off punishment, or should he not wish to present them to our *missi* as ordered, he is to pay the aforementioned fine of sixty *solidi*, as is preserved in the aforementioned capitulary.

16. That if any man, after the Kalends of July, should find from our new coinage a *denarius* of mixed metal or weighing less than it ought, he is to prosecute the man who put forth that *denarius* in trade, and that man himself is to say from whom he received it; and thus it is to come from hand to hand, all the way until it is brought to the originator of the deceit. And the minter of *denarii* of mixed metal or light weight found in that region, in which judgment is restricted according to Roman law, is to be judged according to that law; and in that region, in which judgment is not made according to Roman law, the

dexteram perdat, sicut in quarto libro capitulorum continetur capite XXXIII. Et qui hoc consenserit, si liber est, LX solidos componat; si servus vel colonus, nudus virgis vapulet.

17. Ut diligenter comites et ministri rei publicae per suos comitatus ac ministeria provideant, ne in aliquo loco occulta vel fraudulenta moneta fieri possit. Et si inventus ac comprobatus quilibet fuerit fraudulentam monetam percutiens, sicut constitutum est de falso monetario, ex praefato capitulari praedecessorum nostrorum ‘manus ei amputetur. Et qui hoc consenserit, si liber est, sexaginta solidos componat; si servus vel colonus, nudus cum virgis vapulet.’

minter of false *denarii*, as we said previously, is to lose his right hand, as is preserved in the fourth book of *capitula* in *capitulum* thirty-three.<sup>22</sup> And whoever conspired in this, if he is free, is to pay (as a fine) sixty *solidi*; if he is a *servus* or *colonus*, he is to be stripped and beaten with rods.

17. That counts and agents of the realm are to make provision diligently through their own counties and *ministeria*, so that it may not be possible for a concealed or fraudulent mint to be made in any location. And if found and confirmed that anyone has been striking fraudulent coinage, as it has been established concerning a false minter, from the previously mentioned capitulary of our predecessors ‘the hand is to be cut from him. And anyone who conspired in this, if he is free, is to pay (as

<sup>22</sup>As referenced in the MGH notes, this likely refers to “*capitulum* thirty-one” in the MGH edition of Ansegisus, but all manuscripts consulted for the MGH edition of the capitularies read as shown in this text. See note in c. 13 above. For the cited *capitulum*, see Ansegisus, IV, c. 31, pg. 641-642.



18. Et si falsus monetarius aut de illis locis, in quibus monetam fieri iussimus, aut occulte monetam percutiens aut denarium falsum de nova moneta ad negotiandum proferens, ut constringi et puniri non possit, sicut est constitutum, in fiscum nostrum vel in quamcumque immunitatem aut alicuius potentis potestatem vel proprietatem confugerit, si in nostrum confugerit fiscum, requiratur a ministro nostro. Et si ille eum defenderit aut occultaverit, nuntietur nobis, quatenus ita in eo secundum capitulare regium vindicetur, ne ullus alius unquam falsitatem nostra auctoritate vel potestate consentire aut defendere audeat. Si autem in immunitatem vel potestatem aut

a fine) sixty *solidi*; if he is a *servus* or *colonus*, he is to be stripped and beaten with rods.<sup>23</sup>

18. And if the false minter should flee from those places, in which we have ordered money to be made, so that he may not be able to be caught and punished, as has been decreed, for either secretly striking coinage or putting forth a false *denarius* from the new coinage in trade, into our fisc or any *immunitas* or onto the estates of any *potens*, if he flees into our fisc, he is to be sought by our agent. And if someone should protect or conceal him, it is to be reported to us, since thus according to the royal capitulary he is to be punished,<sup>24</sup> so that no other may ever dare to consent to or defend deceit to our authority or power. If, however, he should flee into an *immunitas* or onto the estates of any *potens*,

<sup>23</sup>Ansegisus, IV, c. 31, pg. 641-642. See cc. 13 and 16 for specific references to this *capitulum*.

<sup>24</sup>See Ansegisus, IV, c. 30, pg. 641; and Ansegisus, IV, c. 31, pg. 641-642, for the punishment for knowingly conspiring with a fraudulent minter. See cc. 15 and 17 above for explicit references to this punishment.

proprietatem alicuius potentis confugerit,  
 secundum quod in tertio libro capitularis,  
 XXVI. capitulo continetur de eo, qui  
 furtum aut homicidium vel quodlibet  
 crimen foris committens infra  
 immunitatem fugerit, inde fiat; id est:  
 ‘mandet comes vel publicae rei minister  
 episcopo vel abbati vel illi, quicumque  
 locum episcopi vel abbatis vel abbatissae  
 tenuerit vel potentis hominis, in cuius  
 potestatem vel proprietatem confugerit, ut  
 reddat ei reum. Si ille contradixerit et eum  
 reddere noluerit, in prima contradictione  
 solidis quindecim culpabilis iudicetur. Si ad  
 secundam inquisitionem eum reddere  
 noluerit, triginta solidis culpabilis iudicetur.  
 Si nec ad tertiam inquisitionem consentire  
 voluerit, quicquid reus damni fecit, totum  
 ille, qui eum infra immunitatem retinet nec  
 reddere vult, solvere cogatur, et ipse comes  
 veniens licentiam habeat ipsum hominem  
 infra immunitatem quaerendi, ubicumque

according to that which is preserved in the  
 third book of capitularies, *capitulum* twenty-  
 six concerning him, who, committing theft  
 or murder or any crime outside (the  
*immunitas*), has fled within the *immunitas*, it  
 is to be done thenceforth; that is: ‘the  
 count or agent of the realm is to entrust  
 the affair to the bishop or abbot or  
 whoever holds the place of the bishop or  
 abbot or abbess or *potens*, into whose  
 estates he flees, so that he (bishop...) may  
 return the guilty party to (the count). If  
 that man (bishop...) should oppose (this)  
 and not wish to return him, in the first  
 objection he is to be judged culpable for  
 fifteen *solidi*. If on the second inquiry he  
 should not wish to return him, he is to be  
 judged culpable for thirty *solidi*. If not even  
 on the third inquiry should he wish to  
 agree, whatever damages the guilty man  
 caused, that man, who retained him within  
 the *immunitas* and did not wish to return

eum invenire potuerit. Si autem in prima inquisitione comiti responsum fuerit, quod reus infra immunitatem quidem fuisset, sed fuga lapsus sit, iuret, quod ipse eum ad iustitiam cuiuslibet disfaciendam fugere non fecisset, et sit ei in hoc satisfactum. Si vero intranti in ipsam immunitatem vel in cuiuslibet hominis potestatem vel proprietatem comiti collecta manu quilibet resistere tentaverit, comes hoc ad regem vel principem deferat, et ibi iudicetur. Et sicut ille, qui in immunitate damnum fecit, sexcentis solidis componi debet, ita qui comiti collecta manu resistere praesumpserit, sexcentis solidis culpabilis iudicetur.’

him, is to be collected to pay (them) back, and the count coming himself is to have license to search for the man within the *immunitas*, wherever he will be able to find him. If, however, on the first inquiry he should respond to the count that the culprit was indeed within the *immunitas*, but by (the culprit’s) escape he should fail to do his duty, he is to swear that he, himself, had not caused him to escape for the purpose of doing violence to the justice of anyone, and he is to have obeyed (the count) in this. If, however, he should attempt to resist (being) collected by the hand of the count by entering into the *immunitas* or onto the estates of another man, the count is to defer to the king or *princeps*, and it is to be decided there. And just as that man, who caused damage in the *immunitas*, must be fined six hundred *solidi*, thus, whoever presumes to resist the collection by the hand of the count, he is to be judged

19. Ut melius et commodius haec providentia de bonis denariis non reiciendis et de monetae falsae denariis custodiri possit, volumus, ut unusquisque comes de comitatu suo omnia mercata inbreviari faciat et sciat nobis dicere, quae mercata tempore avi nostri fuerunt, et quae tempore domni et genitoris nostri esse coeperunt, vel quae illius auctoritate constituta fuerunt, vel quae sine auctoritate illius facta fuerunt, vel quae tempore nostro convenire coeperunt, vel quae in antiquis locis permanent et, si mutata sunt, cuius auctoritate mutata fuerunt. Et ipsum brevem unusquisque comes ad proximum placitum nostrum nobis adportet, ut decernere possimus, quatenus necessaria et utilia et, quae per auctoritatem sunt, maneant, quae vero superflua, interdicantur

culpable for six hundred *solidi*.<sup>25</sup>

19. So that this provision concerning the non-rejection of good *denarii* and concerning the coinage of false *denarii* may be observed better and more properly, we wish that each count for his own county is to cause to be listed all markets and to report to us which markets were there in the time of our grandfather, and which came to be in the time of our lord and father, and which had been established by his authority and which had been made without his authority, and which began to assemble in our time, and which remain in their ancient locations and, if they had been moved, on whose authority had they been moved. And each count is to bring this list to us at our next assembly, so that we may be able to determine where (they are) necessary and useful, and those which

<sup>25</sup>Ansegisus, III, c. 26, pg. 583-585.

vel locis suis restituantur. ‘Et mercata die dominico in nullo loco habeantur’, sicut in primo libro capitulorum, capitulo CXXXVI. habetur.

20. Ut comes et rei publicae ministri ac ceteri fideles nostri provideant, quatenus ‘iustus modius aequusque sextarius’ secundum sacram scripturam et capitula praedecessorum nostrorum in civitatibus et in vicis et in villis ad vendendum et emendum fiat et mensuram secundum antiquam consuetudinem de palatio nostro accipiant, et non pro hac occasione a mansuariis vel ab his, qui censum debent, maior modius, nisi sicut consuetudo fuit, exigatur. Et ipsi homines, qui per villas de

are by our authority are to remain, (while) those which are, in truth, superfluous are to be prohibited or are to be restored to their own locations. ‘And markets are not to be held on Sunday in any location’,<sup>26</sup> as it is held in the first book of *capitula*, *capitulum* one hundred thirty-six.

20. That the count and the agents of the realm and our other *fideles* are to make provision that a ‘just *modius* and fair *sextarius*’, according to the sacred scripture<sup>27</sup> and the *capitula* of our predecessors, are to be made for the purpose of selling and buying in the *civitates* and in the *vici* and in the *villae*, and they are to receive the measure, according to ancient custom, from our palace, and the larger *modius* is not to be weighed for this occasion by the tenants of a *mansus* or by these men, who

<sup>26</sup>This likely refers to *capitulum* 139 of the same book in the MGH edition of Ansegisus. The manuscripts used for the MGH’s Edict refer either to the number shown in the text here (136) or to 145. See Ansegisus, I, c. 139, pg. 509.

<sup>27</sup>Levit. 19,36.

denariis providentiam iurati habebunt, ipsi etiam de mensura, ne adulteretur, provideant, sicut in libro tertio capitulorum, capitulo XC. continetur. Et si quis reputatus fuerit mensuram adulterasse et cum maiori modio vel sextario annonam vel vinum accepisse et cum minori mensura venundare, si liber homo est, aut secundum suam legem se inde sacramento idoneum reddat, aut, si hoc fecisse vel fieri iussisse aut consensisse comprobatus fuerit, hoc, unde mensuram adulteravit, id est vinum et annona a ministris rei publicae tollatur ab eo; insuper et bannum nostrum, id est solidos sexaginta, componat. Si autem colonus vel servus inde reputatus fuerit, aut iudicio Dei se inde examinet, aut, si inde convictus fuerit, hoc, ut supra diximus, unde mensuram adulteravit, perdat; insuper et virgis nudo corpore vapulet. Et sive liber sive colonus vel

owe the *census*, unless it is the (local) custom. And these men, who, having been sworn, will have oversight in the *villae* concerning the *denarii*, are likewise to have oversight concerning the measure, so that it may not be falsified, just as is preserved in the third book of *capitula*, ninetieth *capitulum*.<sup>28</sup> And if anyone should be thought to have falsified the measure and accepted food or wine with a larger *modius* or *sextarius* and sold with lesser measure, if he is a free man, he is either to return them, according to his own law, by his oath to the proper person, or, if it should be proved that he did this or that he ordered or conspired for it to be done, he has, therefore, falsified the measure, (and) the wine and grain are to be taken from him by the agents of the realm; in addition, he is also to pay our fine, which is sixty *solidi*. If, however, a *colonus* or *servus* should be

<sup>28</sup>Ansegius, III, c. 90, pg. 613.

servus de hoc convictus fuerit, post legalem emendationem episcopale iudicium suscipiat, quia contra tale interdictum Domini fecit dicentis: ‘Qui pecuniam suam non dedit ad usuram’; unde regnum Dei sibi clausit, et infernum sibi aperuit. Quod peccatum inter illa criminalia peccata computatur, de quibus dicit apostolus, quod, qui ea fecerit, ‘cum huiusmodi nec cibum sumere’ christiano licet; et inde sacri Nicaeni canones clericos gradus perdere iubent. Et de tali causa, unde seculares homines vitam perdunt, inde clerici ecclesiasticum gradum amittunt. Ministri autem rei publicae se caute custodiant, ne pro hac occasione ducti cupiditate per aliquod malum ingenium a liberis hominibus vel colonis seu servis sua iniuste tollant; quia, si inde ad nos clamor venerit et inde convicti fuerint, sic iniustitiam istam

thought (to have done this), either he is to undergo an ordeal<sup>29</sup> by the judgment of God, or, if he should be found guilty, as we said before, he has therefore falsified the measure, (and) he is to lose these things;<sup>30</sup> in addition, he also is to be stripped and beaten with rods. And whether free man or *colonus* or *servus* is found guilty, after his legal punishment, he is to receive episcopal judgment, because he acted against such prohibition of the pronouncing Lord: ‘He who did not give his money in usury’;<sup>31</sup> from which, he closed the kingdom of God to himself, and he opened hell to himself. Since (this) sin is considered among those criminal sins, concerning which the apostle said, with respect to he who committed them, it is permitted to a Christian ‘with such a one, not so much as to eat’;<sup>32</sup> and, therefore, the sacred Nicene

<sup>29</sup>Niermeyer, *Lexicon*, 386.

<sup>30</sup>The wine and grain.

<sup>31</sup>Psalm 14,5.

<sup>32</sup>1. Corinth. 5,11.

exsolvent, sicut illi, qui in suo ministerio  
 tortum faciant. In illis autem regionibus, in  
 quibus secundum legem Romanam  
 iudicantur iudicia, iuxta ipsam legem  
 committentes talia iudicentur; quia super  
 illam legem vel contra ipsam legem nec  
 antecessores nostri quodcumque capitulum  
 statuerunt nec nos aliquid constituimus.  
 Similiter per civitates et vicos atque per  
 mercata ministri rei publicae provideant, ne  
 illi, qui panem coctum aut carnem per  
 deneratas aut vinum per sextaria vendunt,  
 adulterare et minuere possint. Sed quantos  
 mensurabiles panes in unaquaque civitate  
 de iusto modio episcopi vel abbatis seu  
 comitis ministeriales a pistoribus suis  
 recipiunt, tantos mensurabiles panes de  
 aequo modio a pistoribus, qui panem  
 vendunt, fieri faciant; quodsi inventi fuerint  
 adulterare vel minorare, ut supra diximus,  
 secundum suum modum culpabiles  
 iudicentur. Homines etiam, qui

canons order the clerical orders to  
 condemn him. And concerning such a case,  
 from which secular men lose their life,  
 thence clerics lose (their) ecclesiastical  
 order. Agents of the realm, however, are to  
 safeguard themselves carefully, so that they,  
 led by greed on this occasion, may not take  
 unjustly from free men or *coloni* or their  
*servi* through any wicked means; because, if  
 an outcry should come to us and from that  
 they should be found guilty, thus they will  
 pay back this injustice, just as those who do  
 wrong in their *ministerium*. In these regions,  
 however, in which judgments are given  
 according to Roman law, those men  
 committing (the crime) are to be judged  
 according to that law; because neither did  
 our ancestors establish any *capitulum* nor  
 did we decree anything superseding or  
 going against that law. Similarly, agents of  
 the realm are to make provision with the  
*civitates* and *vici* and with markets, so that



providentiam habere debebunt, ne mancae mensurae fiant, si de periurio, quod iuraverunt, quia hoc consentire non debuissent, revicti fuerint, secundum legem puniantur, sicut in fine capituli decimi ex libro tertio capitulorum habetur, et postea ab episcopo publicam poenitentiam de periurio accipiant.

those, who sell baked bread or meat by the *denarius*-worth or wine by the *sextarius*, may not falsify and diminish (their measures).

But the more bread loaves of standard measure, according to the proper *modius*, that the servants of the bishop or the abbot or the count accept in any particular *civitas* from bakers, the more bread loaves of standard measure, according to a fair *modius*, are to be caused to be made by the bakers, who sell the bread; but if they should be found to falsify or diminish (the measure), as we said before, they are to be judged guilty according to their own rule.

However, so that the measures may not be made useless, if the men responsible for the oversight (of the measures) should be convicted due to a violation of the oath that they swore, because they ought not to have conspired in this, are to be punished according to the law, as is held in the end of the tenth *capitulum* from the third book

21. Ut, quia per tres iam annos bannum pro reiectione bonorum denariorum perdonavimus, volumus, ut modo secundum discretionem, quam missis nostris commendavimus, rewadiatum persolvatur et, ubi rewadiatum non est, rewadietur et solvatur, quatenus et ex hoc et disciplina constituta ita constricti deinceps cessent denarios bonos reicere. Et quoniam audivimus occasione accepta pro rewadiato banno quosdam plus a pauperibus accepisse, quam bannus levat, hoc a missis nostris diligenter requiri volumus. Et quicumque plus ab eis acceperunt, quam iussimus, cogantur illis restituere, et illos absque ulla excusatione ad praesentiam nostram missi nostri

of *capitula*,<sup>33</sup> and afterwards they are to accept public penance from the bishop for (their) perjury.

21. That, because for three years now we have remitted the fine for rejection of good *denarii*,<sup>34</sup> we wish that in the manner according to our *missi*'s discretion, he (who rejected the *denarii*) pay that which was pledged, and, when no pledge has been made, he is to make a pledge and pay it back, so that both from this and from other instructions men are forced hereafter to cease from refusing good *denarii*. And since we have heard on occasion that certain men, when collecting the fine for the pledged *nadium*, had taken more from the poor than the fine levied, we wish that this is to be sought out diligently by our *missi*. And however much more they took from these people than we ordered, they

<sup>33</sup>Ansegisus, III, c. 10, pg. 576.

<sup>34</sup>See MGH, *Cap.*, II, no. 271, pg. 301-302.

adducant, quatenus per nostram  
harmiscaram ita castigentur, ne ulterius tali  
conludio eos delectet opprimere pauperes.

22. Ut a colonis, qui iam pro reiectione  
bonorum denariorum flagellati vel  
flagellandi sunt, nulla alia exactio  
requiratur; et si ab aliquo eorum aliquid  
inde acceptum fuit, a missis nostris cogatur  
restitui. Et qui beneficia vel alodes in  
duobus vel tribus aut quatuor comitatibus  
habent et non habent in unoquoque  
comitatu, unde plenum bannum valeant  
solvere, vel qui in uno tantum comitatu  
alodem vel beneficia habent et non tantum  
ibi habent, unde plenum bannum valeant  
solvere, missis nostris hoc notum faciant,

are compelled to restore to those people,  
and those men without any excuse (for  
their behavior) are to be brought to our  
presence by our *missi*, where they are to be  
punished thus through our *harmiscara*,<sup>35</sup> so  
that it may not please them further to  
oppress the poor by such fraud.

22. That no other exaction is to be required  
from the *coloni*, who now have been or are  
to be whipped for the rejection of good  
*denarii*; and if something thereupon had  
been taken from any of them, it is to be  
compelled to be restored by our *missi*. And  
those who hold *beneficia* or *alodes* in two or  
three or four counties and do not hold in  
each county enough to pay the full fine, or  
those who hold *alodis* or *beneficia* in only  
one county and do not hold only there  
enough to pay the full fine, they are to  
make this known to our *missi*, and this is to

<sup>35</sup>An act of public penance through humiliation. See the entry in the glossary for more details.

et hoc ab eisdem missis nostris diligenter inbrevietur et nobis renuntietur, ut nostra discretione decernamus, qualiter et castigatio ex compositione fiat et homines ultra mensuram et indebite non graventur; 'quia', sicut sancta scriptura dicit, 'non inde requirimus datum, sed fructum', id est non inde requirimus inhonestum lucrum, sed regni ex castigatione profectum. Et non solum in pauperioribus, sed etiam in ditioribus considerare volumus discretionem, quam decessores nostri reges in quarto libro capitulorum posuerunt, capitulo LVII. decernentes: 'Ut de debito', inquit, 'quod ad opus nostrum fuerit reuadiatum, talis consideratio fiat, ut is, qui ignoranter peccavit, non totum secundum legem componere cogatur, sed iuxta quod possibile visum fuerit. Is vero, qui tantum mala voluntate peccavit, totam legis compositionem cogatur exsolvere.'

be taken down diligently by our *missi* from those same men and reported to us, so that we may decide at our discretion, so that both reprimand is made from the fine and that men are not distressed beyond measure and that which is not due; 'because,' as the holy scripture says, 'we do not seek from this a gift, but rather the yield'.<sup>36</sup> We do not seek shameful profit from this, but rather the success of the kingdom as a result of the reprimand. And we wish that our discretion consider not only those in poorer circumstances, but also those in wealthier circumstances, as our predecessor kings established in book four of the *capitula*, decreeing in *capitulum* fifty-seven: 'that concerning what is owed,' it is said, 'which had been pledged on our behalf, such consideration be made that he, who did wrong in ignorance, is not to be forced to pay the whole amount according

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<sup>36</sup>Philipp. 4,17.

23. Ut nullus deinceps in regno nostro mixturam auri vel argenti ad vendendum facere vel consentire praesumat; et nullus a missa sancti Remigii, id est a proximis Kalendis Octobris, aurum vel argentum ad vendendum vel emendum, nisi purificatum proferat. Et si quis inventus fuerit post praefatas Kalendas Octobris aurum vel argentum vel quodcumque fabricinium ex auro vel argento mixtum ad vendendum vel emendum portare, a ministris rei publicae ipsum, quod portaverit, ab eo tollatur, et ipse per fideiussores, si res et mancipia in illo comitatu non habet, ad praesentiam

to the law, but rather to have been seen (to pay) nearly as (much) possible. He, however, who did such wrong with an evil will, is to be forced to pay the entire fine of the law.<sup>37</sup>

23. That no one hereafter in our kingdom is to presume to make or conspire (to make) a mixture of gold or silver to sell; and no one is to bring forward gold or silver to sell or buy from the mass of St. Remigius onward, that is from the next Kalends of October,<sup>38</sup> unless it is brought forward to be purified. And if anyone should be found to bring gold or silver or any jewelry mixed from gold or silver after the aforementioned Kalends of October to sell or buy, that which was brought is to be taken from him by agents of the realm, and the man himself is to be brought by

<sup>37</sup>Most of the manuscripts used for the MGH edition cite *capitulum* fifty-seven of Ansegisus' book four, but the relevant section is *capitulum* fifty-six of the same book in the MGH edition of Ansegisus. See Ansegisus, IV, c. 56, pg. 654.

<sup>38</sup>October 1.

nostram cum ipso auro vel argento adducatur, ut nos inde commendemus, qualiter culpabilis iudicetur. Si vero res et mancipia vel mobile, per quae distringi legaliter possit, in ipso comitatu habuerit, secundum legem ad nostram praesentiam venire iubeatur. Et si quisquam inventus fuerit suum aurum vel argentum vel quodcumque fabricinium ex auro vel argento portare ad fabrum, ut purgetur, provideant rei publicae ministri, ne hac occasione ab eo, quod suum fuerit, tollant. Quodsi fecerint et ad nos inde reclamatio venerit, sicut ille, qui tortum in suo comitatu vel ministerio fecerit, in nostra vel fidelium nostrorum praesentia culpabilis iudicabitur. Faber vero, qui post praefatas Kalendas comprobatus fuerit aurum vel argentum ad vendendum vel emendum adulterasse vel misculasse, in illis regionibus, in quibus iudicia (*sic*) secundum legem Romanam terminantur, iuxta illam

guarantors, if he does not have property and slaves in that county, to our presence with the gold or silver, so that we may order thereupon how the criminal is to be judged. If, however, he should hold property and slaves or moveables, by which he can be compelled legally in that county, according to the law he is to be ordered to come into our presence. And if anyone should be found to bring his own gold or silver or any jewelry of gold or silver to an artisan so that it may be purified, agents of the realm are to see to it that they may not steal on this occasion from that which was their own. And if they should do this and a complaint should come to us thenceforth, just as that man who did wrong in his own county or *ministerium*, the criminal will be judged in our or our *fideles'* presence. The artisan, however, who after the aforementioned Kalends had been proven to debase or mix gold or silver to sell or

legem puniatur; in aliis autem regionibus regni nostri secundum capitulare regium sicut falsam monetam percutiens manum perdat. Et liber homo, qui hoc consenserit, sicut in praefato continetur capitulo, bannum nostrum, id est solidos sexaginta, componat; colonus vel servus nudus cum virgis flagelletur. Si vero Iudacus fuerit, ipsum, quod mixtum proferet, perdat, et bannum nostrum, sicut tempore praedecessorum nostrorum consuetudo fuit, componat.

buy, in those regions in which judgments are restricted according to Roman law, he is to be punished according to that law; in other regions of our kingdom, however, according to the royal capitulary,<sup>39</sup> just as one striking false money, he is to lose his hand. And a free man, who conspires in this, as is contained in the aforementioned *capitulum*, is to pay our fine, that is sixty *solidi*; a *colonus* or *servus* is to be stripped and beaten with rods. If, however, it should be a Jew, he is to lose that which is brought forward to be mixed, and he is to pay our fine, as was the custom in the time of our predecessors.

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<sup>39</sup>Ansegisus, IV, c. 31, pg. 641-642. This *capitulum* is referenced, specifically, in a similar context above. See c. 13 and 16.

24. Ut in omni regno nostro non amplius vendatur libra auri purissime cocti, nisi duodecim libris argenti de novis et meris denariis. Illud vero aurum, quod coctum quidem fuerit, sed non tantum, ut ex eo deauratura fieri possit, libra una de auro vendatur decem libris argenti de novis et meris denariis. Et omnimodis provideant tam comites, quam ceteri omnes ministri rei publicae, ne aliqua adiectione vel fraude per occasionem aliquid amplius vendatur, sicut de suis honoribus volunt gaudere. Et quicumque hanc commendationem nostram aliquo ingenio infirmare vel fraudare seu aliter immutare inventus fuerit, si liber homo fuerit, bannum nostrum, id est sexaginta solidos, componat; colonus seu servus nudus cum virgis flagelletur.

25. Ut, quoniam in praefatis capitulis continetur in libro tertio, capitulo LXXV,

24. That in our entire kingdom not more than a pound of purest smelted gold is to be sold, unless (it is) for twelve pounds of silver from new and pure *denarii*. That gold, however, which has been smelted, but not so much that gilding may be able to be made from it, a pound of that gold is to be sold for ten pounds of silver from new and pure *denarii*. And in every way possible counts are to make such provision so that no one may sell more by means of any addition or fraud through (any) opportunity, as they wish to enjoy their own *honores*. And whoever is found to weaken or defraud or otherwise change our order, if he should be a free man, he is to pay our fine, that is sixty *solidi*; a *colonus* or *servus* is to be stripped and beaten with rods.

25. That, since it is preserved in the aforementioned *capitula* in the third book,



‘ut nullus sine permissio regio bruniam vel arma extraneo dare aut vendere praesumat’, et in eodem libro, capitulo VI. designata sunt loca regni, usque ad quae negotiatores ‘brunias et arma ad venundandum portare et vendere debeant; quodsi inventi fuerint ultra portantes aut venundantes, ut omnis substantia eorum auferatur ab eis, dimidia quidem pars partibus palatii, alia vero medietas inter missos regios et inventorem dividatur’; quia peccatis nostris exigentibus in nostra vicinia Nortmanni deveniunt et eis a nostris bruniae et arma atque caballi aut pro redemptione dantur aut pro pretii cupiditate venundantur; cum pro redemptione unius hominis ista donantur vel pro pauco pretio venundantur, per hoc auxilium illis contra nos praestitum et regni nostri maximum fit detrimentum et multae Dei ecclesiae destruuntur et quamplurimi

*capitulum* seventy-five, ‘that no one may presume to give or sell a mail coat or weapons to a foreigner without royal permission’,<sup>40</sup> and in the same book, *capitulum* six, areas of the kingdom are indicated, up to which traders ‘must sell or bring to sell mail coats and weapons; and if they had been found bringing or selling beyond those regions, that all of their wealth is taken from them, at least half their property (taken) for the benefit of the fisc, the other half is distributed among the royal *missi* and the discoverers’.<sup>41</sup> Because, for our sins, the Northmen arrived in our territory, and mail coats and weapons and horses are either surrendered to them as ransom or sold to them on account of desire of pay; when these things are surrendered as ransom for one man or they are sold on account of a small amount of pay, by means of this aid to those

<sup>40</sup>Ansegisus, III, c. 75, pg. 607-608.

<sup>41</sup>Ansegisus, III, c. 6, pg. 572-573.

christiani depraedantur et facultates  
ecclesiasticae et regni exhauriuntur:  
propterea una cum consensu atque consilio  
nostrorum fidelium constituimus, ut,  
quicumque post proximas Iulii Kalendas  
huius duodecimae indictionis Nortmannis  
quocumque ingenio vel pro redemptione  
vel pro aliquo pretio bruniam vel  
quaecumque arma aut caballum donaverit,  
sicut proditor patriae et expositor  
christianitatis ad perditionem gentilitati sine  
ulla retractione vel redemptione de vita  
componat. Quae omnia omnibus citissime  
a missis nostris et comitibus nota fiant, ne  
de ignorantia se excusare valeant.

Northmen the greatest harm was done  
against us and to our kingdom, and many  
churches of God were destroyed and very  
many Christians were preyed upon and the  
resources of the church and of the  
kingdom were drained. Therefore, together  
with the consensus and counsel of our  
*fideles*, we establish that after the next  
Kalends of July of the twelfth year of this  
indiction whoever presents to the  
Northmen a mail coat or any weapons or a  
horse in any way, either as ransom or on  
account of any pay, he is to be punished  
just as a traitor to his homeland and an  
abandoner of Christianity to destruction  
by paganism, without any hesitation or  
ransom with regard to his life.<sup>42</sup> And  
everything should quickly be made known  
to all by our *missi* and the counts, so that  
they may not be able to justify themselves

<sup>42</sup>One of the manuscripts consulted for the MGH edition of the Edict explicitly states that the punishment for this crime is death and confiscation of property. See MGH, *Cap.*, II, no. 273, pg. 321, \* note on cod. 3.

26. Ut pagenses Franci, qui caballos habent vel habere possunt, cum suis comitibus in hostem pergant; et nullus per violentiam vel per aliquod malum ingenium aut per quamcumque indebitam oppressionem talibus Francis suas res aut caballos tollat, ut hostem facere et debitos paraveredos secundum antiquam consuetudinem nobis exsolvere non possint, neque comes neque aliquis minister rei publicae. Quodsi fecisse aliquis eorum comprobatus fuerit, sic hoc cogatur componere, sicut de illis est constitutum in capitularibus regiis, qui tortum in suo comitato vel ministerio faciunt.

27. Ut iuxta regium capitulare, quod

through ignorance.

26. That the Franks of the *pagi*, who own or are able to own horses, are to go with their own counts to the army. And no one, neither counts nor any agent of the realm, through violence or through any wicked trick or through any undue force whatsoever, is to take the property or the horses of such Franks, so that they may not be able to join the army and be able to provide the post horses owed to us according to ancient custom. And if any of them had been proven to have done so, he is thus forced to pay this (fine), as it has been decreed concerning those matters in the royal capitularies,<sup>43</sup> (concerning those) who commit a grievance in their own county or *ministerium*.

27. That, just as stated in the royal

<sup>43</sup>See MGH, *Cap.*, II, no. 266, c. 8, pg. 287.

domnus et genitor noster anno XVI. regni  
sui capitulo VII. constituit, comites vel  
‘missi nostri diligenter inquirant, quanti  
homines liberi in singulis comitatibus  
maneant, qui per se possunt expeditionem  
facere, vel quanti de his, quibus unus alium  
adiuuet, quanti etiam de his, qui a duobus  
tertius adiuvetur vel praeparetur, necnon de  
his, qui a tribus quartus adiuvetur et  
praeparetur, sive de his, qui a quatuor  
quintus adiuvetur et praeparetur, ut  
expeditionem exercitalem facere possint, et  
eorum summam ad nostram notitiam  
deferant’; ut illi, qui in hostem pergere non  
potuerint, iuxta antiquam et aliarum  
gentium consuetudinem ad civitates novas  
et pontes ac transitus paludium operentur  
et in civitate atque in marca wactas faciant;  
ad defensionem patriae omnes sine ulla  
excusatione veniant. Et qui de talibus  
hostem dimiserint, heribannum iuxta

capitulary, which our lord and father  
decreed in the sixteenth year of his reign in  
the seventh *capitulum*,<sup>44</sup> the counts or ‘our  
*missi* are diligently to investigate how many  
free men live in each county, who are able  
to compose by themselves the  
expeditionary army, or how many from  
these, from which one man aids another,  
how many even from these, who aid and  
prepare a third man from two, and also  
from these, who aid and prepare a fourth  
man from three, or from these, who aid  
and prepare a fifth man from four, so that  
they may be able to compose the  
expeditionary army of those liable for  
expeditionary military service, and the sum  
of them are to register on our list’. That  
these men, who were not able to travel to  
the army, as in ancient custom and that of  
other peoples, are to labor on new *civitates*  
and bridges and the crossings of swamps,

<sup>44</sup>MGH, *Cap.*, II, no. 186, c. 7, pg. 7.

discretionem, quae in progenitorum nostrorum tertio libro capitulorum, capitulo XIV. continetur, persolvant. Et qui ad defensionem patriae non occurrerint, secundum antiquam consuetudinem et capitulorum constitutionem iudicentur.

28. Ut illi Franci, qui censum de suo capite vel de suis rebus ad partem regiam debent, sine nostra licentia ad casam Dei vel ad alterius cuiuscumque servitium se non tradant, ut res publica, quod de illis habere debet, non perdat. Quodsi aut seipsos aut res suas ad casam Dei aut ad alterius cuiuscumque servitium sine licentia nostra

and they are to perform guard duty in the *civitas* and on the marches. All, without any excuse, are to come to the defense of their homeland. And if anyone from such a group is to desert the army, they are to pay the *beribannus* according to their means, as is preserved in the third book of *capitula* of our ancestors, *capitulum* fourteen.<sup>45</sup> And if anyone should not run to the defense of the homeland, they are to be sentenced according to ancient custom and the decree of the *capitula*.<sup>46</sup>

28. That those Franks, who owe the *census* from their own manor or their own property to the royal share, are not to hand themselves over to the house of God or any other *servitium* without our permission, so that the realm may not lose that which it ought to have from them. And if they were to wish to hand over themselves or their

<sup>45</sup>Ansegisus, III, c. 14, pg. 578-579.

<sup>46</sup>For an example of this mandate from Lothar's reign, see MGH, *Cap.*, I, no. 158, c. 18, pg. 319-320.

tradere voluerint, sicut in capitulari avi nostri continetur de his, qui pro furto se in servitium tradere cupiunt, comites vel vicarii hoc eis non consentiant, sed ex banno nostro prohibeant. Quod et si contra bannum nostrum fecerint, ipsi, qui eos receperint, bannum nostrum, id est solidos sexaginta, componant. Et si ipsos in servitio suo habere voluerint vel illorum res, de quibus census ad partem regiam exiebat, tenere voluerint, censum, quem ipsi Franci debebant vel qui de illorum rebus exire solebat, ad nostram regiam partem componant, sicut in praefato capitulorum libro tertio, capitulis XV. et LXXXVI. et in libro IV, capitulo XXXVI. habetur. Et quia, sicut in sacris ecclesiasticis regulis invenitur, ‘prior observatio durior, posterior autem exigente causa inclinatio’ fuit, post haec praefata capitula decessorum et progenitorum

property to the house of God or any other *servitium* without our permission, as is preserved in the capitulary of our grandfather<sup>47</sup> concerning those men, who through trickery want to hand themselves over into *servitium*, counts or *vicarii* are not to assent to this for them, but are to prevent (them) because of our *bannum*. But if they were to go against our *bannum*, those, who receive them, are to pay our fine, which is sixty *solidi*. And if they were to want to have those men in their own *servitium* or they were to want to hold those men’s property, from which the *census* is due to the royal share, they are to pay the *census* to our royal share, which those Franks were owing or which was accustomed to be due from their property, as is held in the aforementioned third book of *capitula*, in the fifteenth and eighty-sixth *capitula*,<sup>48</sup> and in book four, in the thirty-

<sup>47</sup>See MGH, *Cap.*, I, no. 77, c. 15, pg. 172.

<sup>48</sup>See Ansegisus, III, c. 15, pg. 579; and *ibid.*, c. 86, pg. 612.

nostrorum huiusmodi, sicut praediximus, Francis hominibus res suas ad casam Dei vel aliis tradere ac vendere eosque ad divinum servitium converti, si vellent, non prohibuerunt, sicut in capitulis libri primi, capitulis CXXXII. et CXXXIV. et in libro II, capitulo XXXI. et in libro IV, capitulo XIX. continetur. Si quis de talibus Francis de suis rebus tradere vel vendere voluerit, non prohibemus; tantum ut ius regium, quod sibi debetur, sine ratione non perdat; quia iniustas consuetudines noviter institutas imponere cuique non volumus, quas in quarto libro eorundem capitulorum prohibitas cap. XLVII. legimus. De illis autem, qui secundum legem Romanam vivunt, nihil aliud, nisi quod in eisdem

sixth *capitulum*.<sup>49</sup> And since, as is found in the sacred ecclesiastical code, ‘earlier observation being stricter, the latter is, on the other hand, less so’,<sup>50</sup> following these aforementioned *capitula* of our predecessors and ancestors of this sort, as we have said before, they have not forbade Frankish men or anyone else, if they should wish, to hand over and to sell their property to the house of God and to transfer them into divine *servitium*, as is contained in *capitula* of the first book, one hundred and thirty-second *capitulum* and one hundred and thirty-fourth *capitulum*,<sup>51</sup> and in book two, thirty-first *capitulum*,<sup>52</sup> and in book four, fourteenth *capitulum*.<sup>53</sup> If anyone from among such Franks should

<sup>49</sup>As referenced in the MGH notes, this likely refers to the “thirty-fifth *capitulum*” in the MGH edition of Ansegisus, but all manuscripts consulted for the MGH edition of the capitularies read as shown in this text. See Ansegisus, IV, c. 35, pg. 643.

<sup>50</sup>Innocent I, *Epistolae et Decreta*, letter 6, *Patrologia Latina*, ed. J.-P. Migne, vol. 20, col. 498.

<sup>51</sup>Most of the manuscripts used for the MGH edition cite the one hundred and thirty-second and one hundred and thirty-fourth *capitula* of Ansegisus’ first book, but the relevant sections are one hundred and thirty-fifth and one hundred and thirty-seventh *capitula* of the same book in the MGH edition of Ansegisus. See Ansegisus, I, c. 135, pg. 508-509; and *ibid.*, c. 137, pg. 509.

<sup>52</sup>Ansegisus, II, c. 31, pg. 553-554.

<sup>53</sup>Most of the manuscripts used for the MGH edition cite the fourteenth *capitulum* of the fourth book, with one citing the eighteenth *capitulum* of a (non-existent) fifth book. The appropriate citation for the MGH edition is likely *capitulum* eighteen of book four. See Ansegisus, IV, c. 18, pg. 629-631.

continentur legibus definitis.

wish to deliver or sell from their possessions, we do not forbid it; so that royal law, by which they are bound, may not destroy without reason; because we do not wish to impose on anyone unjust practices, newly established, which we have found prohibited in that same fourth book of *capitula*, forty-seventh *capitulum*.<sup>54</sup>

Concerning those men, however, who live according to Roman law, nothing else (is to be done), unless we specify what is contained in that same law.

29. Ut illi coloni, tam fiscales, quam et ecclesiastici, qui, sicut in polypticis continentur et ipsi non denegant, carropera et manopera ex antiqua consuetudine debent et margilam et alia quaeque carricare, quae illis non placent, renuunt, quoniam adhuc in illis antiquis temporibus

29. That those *coloni* in subserviency to the fisc and those who serve the church, who owe cartage service and service as laborers according to ancient custom, as is preserved in the polyptychs and as they themselves do not deny, and who refuse to cart earth and other things which are not

<sup>54</sup>Most manuscripts used for the MGH edition cite the forty-seventh *capitulum* of the fourth book, with one citing the forty-fifth *capitulum* of the same book. The appropriate citation for the MGH edition is likely the forty-fifth *capitulum*. See Ansegisus, IV, c. 45, pg. 649.



forte margila non trahebatur, quae in multis  
 locis tempore avi ac domni et patris nostri  
 trahi coepit, et de manopera in scuria  
 battere nolunt et tamen non denegant, quia  
 manoperam debent, quicquid eis caricare  
 praecipitur de opera carroperae, quando  
 illam facere debent, sine ulla differentia  
 carricent; et quidquid eis de opera  
 manoperae, quando illam facere debent,  
 praecipitur, similiter sine ulla differentia  
 faciant.

30. Ut, quoniam in quibusdam locis coloni,  
 tam fiscales, quam et de casis Dei, suas  
 hereditates, id est mansa, quae tenent, non  
 solum suis paribus, sed et clericis canonicis

pleasing to them, since as yet in those  
 ancient times perhaps earth was not  
 hauled, (but) which in many places in the  
 time of our grandfather and our lord and  
 father began to be hauled, and those who,  
 concerning service as laborers, are  
 unwilling to flail (grain)<sup>55</sup> in the barn and  
 nevertheless do not refuse, because they  
 owe service as laborers, whatever is  
 instructed for them to cart according to  
 their task of manual labor, since they must  
 do that duty: they are to cart without any  
 distinction; and they are to do similarly,  
 without any distinction, those tasks  
 concerning the work of manual labor,  
 because they must do that duty.

30. That, since in certain areas both *coloni*  
 in subserviency to the fisc and (those who  
 are) ecclesiastical dependents sell their  
 possessions, which are *mansi* that they hold,

<sup>55</sup>See Niermeyer, *Lexicon*, 87, for *battuere* as 'to thrash corn'.

ac villanis presbyteris et aliis quibuscumque hominibus vendunt et tantummodo sellam retinent et hac occasione sic destructae fiunt villae, ut non solum census debitus inde non possit exigi, sed etiam quae terrae de singulis mansis fuerunt, iam non possint agnosci: constituimus, ut praecipiat a nostris ministerialibus et a ministris ecclesiasticis, ut hoc nullo modo de cetero fiat, ne villae destructae atque confusae fiant; et quicquid de singulis mansis sine licentia dominorum vel magistrorum per quoscumque venditum est, recipiatur, et singulis mansis, de quibus terrae venditae sunt et de quibus census decidit propter eorum impossibilitatem, qui mansa deservire non possunt, restituatur; et iuxta qualitatem vel quantitatem terrae vel vinearum ad singulos mansos pertinentium, postquam restaurati fuerint, ab unoquoque manso census ad partem dominicam exigatur.

not only to their equals, but also to canonical clergy and village priests and to any other men, and merely retain their rural homestead, and thus on this account the *villae* have been destroyed, so that not only may the owed *census* not be able to be collected, but also now they may not be able to recognize which land was from an individual *mansus*. We decree that (the would-be alienator) is be warned by our agents and by ecclesiastical agents that this (practice) is not to be done in any fashion concerning the rest (of the lands in the *villa*), so that *villae* may not become destroyed and diffused; and whatever had been sold from a single *mansus* without the license of the lords or masters by whomever is to be taken back, and it is to be restored to the individual *mansus* from which the land had been sold and from which the *census* had been diminished because the inability of (the former

31. De adventitiis istius terrae, quae a Nortmannis devastata est, constituimus, ut, sicut in capitulari avi nostri Karoli imperatoris habetur, unusquisque comes de suo comitatu et nomina eorum et qui sunt eorum seniores describi faciant et ipsos advenas, qui a tempore avi nostri atque a tempore domini et patris nostri in illorum comitatibus commanent, secundum consuetudinem, quae illorum temporibus fuit, eos ibi manere permittant. Illos vero, qui persecutione Nortmannorum nuper de istis partibus in illas partes confugerunt,

holders), who are not able to make the payments due for holding *mansi*;<sup>56</sup> and like the quality or quantity of earth or vines belonging to individual *mansus*, after they had been restored, the *census* is to be produced by each *mansus* for the lord's share.

31. Concerning migrants from that territory which has been laid waste by the Northmen, we decree that, just as is held in the capitulary of our grandfather, the emperor Charles,<sup>57</sup> each count is to create a list from his own county of both the names (of the displaced people) and the names of their (original) *seniores*, and they are to permit those migrants, who remain from the time of our grandfather and from the time of our lord and father in the counties of those counts, according to custom as it existed in their time, to remain

<sup>56</sup>Niermeyer, *Lexicon*, 325.

<sup>57</sup>See Ansegisus, III, c. 18, pg. 580; and Ansegisus, Appendix II, c. 2, pg. 670.

episcoporum missi cum missi rei publicae taliter de illis partibus in istas partes venire faciant, ut non opprimantur nec aliquis census vel quaecumque exactio ab illis exigatur; et habeant licentiam, quae in illis partibus suo servitio promeruerunt vel quocumque iusto ingenio adepti sunt, commendandi. Et illi, qui nullum lucrum de opere in vineis sperant, Kalendis Septembris unusquisque ad locum suum iam perventus sit; et qui lucrum de vineis in illis partibus promeruerit, octo dies post missam sancti Remigii in istas partes iam sit perventus et sibi in istis partibus in futurum provideat et suo seniori serviat. Et si necesse illi fuerit, ad missam sancti Martini ad suum conductum in illas partes redeat, et usque ad Kalendas Aprilis ibidem immorandi licentiam habeat, indeque ad terram suae nativitatis et ad senioratum suum unusquisque redeat, et usque ad

there. However, *missi* of the bishop are to cause those men, who recently fled the persecution of the Northmen from those (ravaged) regions into other territories, to come with the *missi* of the realm from their regions into the original territories in the way described, so that they may not be overwhelmed and so that any *census* or any other exaction may not be exacted from those (disposed) men; and the who are to be commended (back to their lords) are to have license, which they have earned by means of their service in those regions (they fled to) or whatever just character they have inherited. And (concerning) those men, who await no profit from work in the vineyards, each is now to be reached at his own location on the Kalends of September.<sup>58</sup> And he who earned profit from the vineyards in those regions (to which he fled) is to be reached among

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<sup>58</sup>September 1.

medium Maium propter seminationem  
 ibidem maneat; indeque, si illi necessitas  
 fuerit, ad suum conductum redeat; et inde  
 ad messiones in terram suam unusquisque  
 redeat, et de cetero ibidem permaneat. Si  
 autem de istis partibus in illis partibus  
 femina maritum aut maritus feminam  
 accepit, illud coniugium, quia non est  
 legale neque legitimum, sicut Leo in suis  
 decretis et sanctus Gregorius in suis  
 epistolis monstrant, dissolvatur; et cuius  
 fuerit vir vel femina, mancipium suum  
 quaeque potestas recipiat, et suae potestatis  
 homini coniungere faciat. Et si infantes  
 inde nati sunt, secundum legem et  
 antiquam consuetudinem nostram infantes  
 matrem sequantur. In illis autem  
 regionibus, quae legem Romanam  
 sequuntur, secundum eandem legem fieri  
 exinde decrevimus.

those regions (from which he came) eight  
 days after the mass of St. Remigius, and he  
 is to make provision in the future in those  
 regions (from which he came) and is to  
 serve with his own *senior*. And if it should  
 be necessary for him, he is to return by the  
 mass of St. Martin into those regions (to  
 which he fled) with safe conduct, and he is  
 to have license to remain in that same place  
 up to the Kalends of April,<sup>59</sup> and from that  
 time each man is to return to the land of  
 his birth and to his lord's territory, and he  
 is to remain until the middle of May in that  
 same place for planting season; and from  
 that time, if this will be necessary for him,  
 he is to return with safe conduct (to the  
 land to which he fled); and from that time  
 he is to return to his own land for the  
 harvest, and at that time he is to remain  
 (there) for the future. If, however, a woman  
 from (other) regions accepted a husband or

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<sup>59</sup>April 1.

a man from (other) regions accepted a wife in those regions (into which they fled), that marriage, because it is not legal nor legitimate, as Leo in his decretal and St. Gregory in his letters teach,<sup>60</sup> is to be dissolved; and he whose man or woman it was, his authority is to receive his slave, and he is to have (that person) marry a person under his authority. And if children have been born from this time, according to our law and ancient custom, the children are to follow the mother. In those regions, however, which follow Roman law, we have decreed furthermore (for it) to be done according to that same law.

32. Ut conlimitanei et vicini comites in una die, si fieri potest, mallum non teneant, maxime post octavas paschae, propter Francos homines et advocatos, qui ad

32. That counts that border one another are not to hold a court on the same day, if it is possible to be done, especially after the eighth day of Easter,<sup>61</sup> on account of

<sup>60</sup>For Leo's decrees on marriage, see Leo I, *Epistolae*, letter 167, *Patrologia Latina*, ed. J.-P. Migne, vol. 54, col. 1204-1205. For Gregory, the MGH offers no suggestions on what letters the *capitulum* may be referencing, and I have been unable to find anything myself.

<sup>61</sup>The eighth day of Easter is the Sunday following Easter Sunday.

utraque malla non possunt occurrere; sed mittant sibi invicem missos; et si unus die Lunis mallum habuerit, alter die Iovis aut die Lunis sequentis hebdomadae mallum habeat. Et ne grave ei sit, qui suum mallum interiecit, qui uno anno primus tenuerit mallum, sequenti anno consentiat alteri primum tenere. Et si sacramenta legalia in primo die Lunis post pascha iuranda devenerint aut in aliis feriis, quando mallum tenere debuerat, mittat quisque comes missum suum, qui ipsa sacramenta auscultet, ne ipsi homines iectivi inveniantur. Et ipse sic mallum suum teneat, ut *barigildi* eius et advocati, qui in aliis comitatibus rationes habent, ad suum mallum occurrere possint.

Frankish men and their advocates, who are not able to go to both courts. But they are to send *missi* for themselves in their place; and if one were to have a court on Monday, the other is to have the court on Thursday or on Monday of the following week. And so that it may not be burdensome for him, who interposes his own court (after the other's), whoever held the first court in one year, in the following year he is to consent to the other to hold the first court. And if legal oaths to be sworn are to proceed on the first Monday after Easter or on other holy days, when (the count) ought to hold court, each count is to send his own *missus*, who is to hear those oaths, so that those men may not be found unable to swear in court.<sup>62</sup> And so he is to hold his own court, so that his *barigildi* and their advocates who have

<sup>62</sup>*Iectivi* is a difficult term to translate. See Niermeyer, *Lexicon*, 559-560, for this word (in the form of *jactivus*). See Brunner, *Deutsche Rechtsgeschichte* II, 368-369, for a discussion of the various forms of the word and its usage.

33. Et quia sacramenta post quadraginta noctes legaliter iuranda accipiuntur et in praefatis praedecessorum et progenitorum nostrorum capitulis invenitur, ut, 'postquam comes et pagenses de qualibet expeditione hostili reversi fuerint, ex eo die super XL noctes sit bannus resisus, quod in lingua Theodisca scaftlegi, id est armorum depositio, vocatur', multi inde contendunt, et se inter se iectiscunt. Alii enim suum sacramentum quadagesimo die, in quo illud accipiunt, iurare volunt; et in tantum contendunt, ut, etiamsi intra quadagesimam sacri ieiunii quadagesimus

business in other counties may be able to go to his court.

33. And because the sworn oaths are to be taken,<sup>63</sup> according to the law, after forty nights, and because it is found in the aforementioned *capitula* of our predecessors and ancestors that,<sup>64</sup> 'after the count and *pagenses* had returned from campaign, from that day after forty nights the *bannum* is to be re-imposed, which in the German language is called *scaftlegi*, which is a laying down of weapons', many dispute thereupon, and they accuse each other of failing to do as they are sworn to do.<sup>65</sup> Others wish to swear their own oath on the fortieth day, on which they take it;

<sup>63</sup>N.B. *Accipere* and *iurare* are used interchangeably, and in conjunction with one another, to indicate both the agreement to swear the oath of disarmament at the beginning of the forty day period, and the actual execution of the oath and the disarmament itself at the end of the period.

<sup>64</sup>The MGH edition of the Edict attributes this citation to a *capitulum* found in Benedictus Levita, Add. IV, c. 114 (which can be found in Add. IV, pg. 17, of Gerhard Schmitz's new edition of the collection-[www.benedictus.mgh.de/haupt.htm](http://www.benedictus.mgh.de/haupt.htm) (accessed Jan. 22, 2013)). The text of the Edict itself does not indicate its source, however, except for the general *praefatis praedecessorum et progenitorum nostrorum capitulis*. The quotation also matches a *capitulum* from Louis the Pious' *Capitulare missorum Wormatiense* (MGH, *Cap.*, II, no. 192, c. 13, pg. 16).

<sup>65</sup>See note 62 for a previous use of a form of this concept. *Iectiscere* (or *jectiscere*) indicates a failure to fulfill a required legal duty or swear a legal oath, in this context. See Niermeyer, *Lexicon*, 560, for *jectiscere*; and Niermeyer, *Lexicon*, 4, for *abjectire*, a related word.



dies advenerit, suum sacramentum se iurare debere contendant, et contra causatores suos, si ad hoc audiendum non venerint, iectiscunt. Numerant enim dies, et non numerant cum eis noctes; sicut numerantur dies et non numerantur noctes a nativitate Domini usque ad purificationem sanctae Mariae et a resurrectione Domini usque ad ascensionem Domini. Quadragesimo enim die et purificatio sanctae Mariae a nativitate Domini et quadragesimo die a resurrectione Domini, quae est in dominica die, ascensio Domini celebratur, quae evenit quinta feria, id est Iovis die. Et de diebus sine memoria noctium Dominus per Ionam prophetam dicit: 'Adhuc quadraginta dies, et Ninive subvertetur.' Et quadraginta dies simul cum noctibus in ieiunio Heliae prophetae et Moysi, quando legem secundo accepit, et ipsius Domini ieiunio computantur. In quibus sex septimanae, id est quadraginta et duo dies,

and they argue so much, that, even if the fortieth day comes during the forty days of sacred Lent, they would argue that they must swear their oath, and against the opposing parties, if they should not come to listen to this (oath), (they would argue) that they have failed in their sworn duty. They count the days, and they do not count the nights with them; just as the days are counted and the nights are not from the birth of the Lord until the purification of the holy Mary and from the resurrection of the Lord until the ascension of the Lord. Indeed, both on the fortieth day from the birth of the Lord the purification of holy Mary (is celebrated) and on the fortieth day from the resurrection of the Lord, which is on a Sunday, the ascension of the Lord is celebrated, which happens on the fifth holy day, that is on Thursday. And from days without memory of nights the Lord through the prophet Jonas said:

fiunt usque ad resurrectionem Domini, quae fit in dominica die, sicut et initium quadragesimae. Et haec non sine Dei mysterio fiunt, per quem conditores legum iusta decernunt. Unde, sicut in quibusdam regionibus rectius tenere comperimus, una cum consensu et fidelium nostrorum consilio constituimus, ut ab ipso die, quo sacramentum accipitur, post quadraginta dies et quadraginta noctes, id est quadragesimo secundo die, de sex septimanis, ipsa feria, qua illud sacramentum accipit, sicut pascha ipsa feria fit, qua initium quadragesimae accipitur, qui sacramentum legaliter accipit, legaliter in locis constitutis iuret, sicut in capitulorum libris decessorum et progenitorum nostrorum continetur. Et amodo nulla dissensio vel retractatio in regno nostro a quolibet ex hoc fiat. Quod

‘Yet forty days, and Nineveh shall be destroyed.’<sup>66</sup> And likewise forty days is counted with nights in the fast of the prophet of Elias and of Moses, when he received the law on the following day, and in the fast of the Lord himself. In which six weeks, that is forty-two days, that took place until the resurrection of the Lord, which occurred on Sunday, just as the beginning of Lent. And this did not occur without the worship of the Lord, through which the makers of the law determined what is just. From which, just as in certain areas we learned to preserve what is more just, together with the consensus and counsel of our *fideles* we decree that, from that very day (on) which the oath is taken, after forty days and forty nights, it is on the forty-second day,<sup>67</sup> on the sixth day of the seventh week, itself a holy day, on which

<sup>66</sup>Ionas 3,4.

<sup>67</sup>The Latin reads *quadragesimo secundo die*, but the context implies that this is the forty-first day. It is possible that they are using inclusive counting in this calculation.

mandatum nostrum si quis contemnere praesumpserit, bannum nostrum, id est LX solidos, componat. Et si ipsa dies intra quadragesimae sacra ieiunia evenerit, nemo illud sacramentum, quod accepit, in quadragesima iurare praesumat; quia ex hoc iam etiam manifestam Dei vindictam vidimus et audivimus. Et si quis praesumpserit, similiter bannum nostrum componat, et inde poenitentiam episcopali iudicio faciat. Ipsam autem quadragesimam a quarta feria, id est a capite ieiunii, cum ipsa quarta feria, qua publice poenitentes poenitentiam accipiunt, observari usque ad sanctam resurrectionem secundum consuetudinem antiquam praecipimus. Sed expectet qui sacramentum ante quadragesimam servatum accepit, si XL dies et XL noctes ante illud quadragesima non habuit, sine ulla legali compositione vel iectitione usque ad diem Lunis post

he takes the oath, just as Easter itself is a holy day from which the beginning of Lent is undertaken, whoever takes the oath according to the law, he is to swear in the appointed places according to the law, just as is preserved in the book of *capitula* of our predecessors and of our ancestors.<sup>68</sup> And henceforth no conflict or refusal is to be made in our kingdom by anyone on account of this issue. And if anyone presumes to disregard our mandate, he is to pay our fine, which is sixty *solidi*. And if this day occurs during the sacred fast of Lent, no one is to presume to swear that oath, which he took, in Lent; because from this now we have seen and heard the unmistakable vengeance of God. And if anyone should presume likewise, our edict orders (that) he would bring about punishment from an episcopal trial. Moreover, we order, according to ancient

<sup>68</sup>See Ansegisus, IV, c. 26, pg. 637-638.

octavas paschae; et tunc, quod legaliter  
 accepit, legaliter et perficiat.

34. Notum fieri volumus omnibus Dei et  
 nostris fidelibus, quoniam quidam comites  
 nostri nos consuluerunt de illis Francis  
 hominibus, qui censum regium de suo  
 capite, sed et de suis rescellis debebant, qui  
 tempore famis necessitate cogente seipsos  
 ad servitium vendiderunt. Unde cum  
 episcopis et ceteris Dei ac nostris fidelibus  
 tractavimus, quid nobis esset agendum; et

custom, Lent to be observed from the  
 fourth holy day, that is from Ash  
 Wednesday, on which the repenting people  
 take punishment publicly, until the holy  
 resurrection. But he who takes the oath  
 before the appointed fortieth day is to wait,  
 if forty days and forty nights have not  
 passed before Lent, until the Sunday after  
 the eighth day of Easter, without any legal  
 payment or fine; and then, because he took  
 it according to the law, he is to execute it  
 according to the law.

34. We wish it to be made known to all our  
*fideles* and all those of God, since certain of  
 our counts have consulted us concerning  
 those Franks, who owed the royal *census*  
 from their own manor, but also from their  
 minor estates, who sold themselves into  
*servitium* in a time of want to collect what  
 they needed. Concerning this we discussed  
 with the bishops and other servants of

quod cum eis inde invenimus ac  
 constituimus, praesenti edicto decrevimus:  
 Id est, quia non in lege Salica ex hoc  
 expressius quiddam invenimus, continetur  
 tamen in tertio capitulorum libro, capitulo  
 XXIX. de homine libero, ‘qui se loco wadii  
 tradidit in alterius potestatem, et ibi  
 constitutus damnum aliquod cuilibet  
 fecerit, ut is, qui eum loco wadii suscepit,  
 aut damnum solvat aut hominem in mallo  
 productum amittat perdens simul debitum,  
 propter quod eum pro wadio suscepit; et  
 qui damnum fecit, dismissus iuxta  
 qualitatem rei cogatur emendare. Si vero  
 liberam feminam habuerit et, usque dum in  
 pignore extitit, filios habuerint, liberi  
 permaneant.’ Et in lege digito Dei scripta  
 legimus, ut, si attenuatus fuerit frater noster  
 et se in servitium tradiderit, sex annis  
 serviet illi, qui eum emit, et septimo  
 egrediatur liber gratis. Quae sacra historia  
 et observantes moraliter aedificat et altiori

God and our *fideles* that which must be  
 done by us; and with these men thereupon  
 we resolved and established (a solution),  
 (which) we have decreed by the present  
 edict: That is, because we do not find in  
 Salic law something more expressly  
 addressing this, it is preserved still in the  
 third book of *capitula*, *capitulum* twenty-  
 nine, concerning a free man ‘who handed  
 himself over into the power of another in  
 the place of a pledge, and, while in his  
 charge, caused some damage to someone,  
 that he who accepted him in the place of a  
 pledge is either to pay back the damage or  
 to dismiss the man in court, losing at the  
 same time his obligation, because he had  
 accepted him for his pledge; and the  
 dismissed man, who caused the damage, is  
 to be compelled to compensate on par  
 with the condition of the property. If he  
 should have a free wife and they should  
 have sons, so long as he stood forth in

sensu intelligentes inluminat. In lege etiam, quam praedecessores nostri et nominatissimi imperatores constituerunt de his, qui filios suos fame aut alia aliqua necessitate cogente vendunt, plura habentur capitula, quae omnia hic non necesse duximus ponere. Tamen illud capitulum, quod cum sanctis ecclesiasticis regulis ex maxima parte concordari invenimus, hic ponere necessarium duximus, in quo dicit: ‘Ut quicumque ingenui filios suos, quod et de ipsis liberis hominibus, qui se vendunt, observari volumus, qualibet necessitate seu famis tempore vendiderint ipsa necessitate compulsi, emptor, si quinque solidis emit, sex recipiat; si decem, duodecim solidos similiter recipiat; aut si amplius, secundum suprascriptam rationem augmentum pretii consequatur.’ Sanctus autem Gregorius etiam de his, qui liberi a paganis capti

pledge, they are to remain free’.<sup>69</sup> And in the law written by the finger of God<sup>70</sup> we read that, if our brother should have been weakened and he should surrender himself into *servitium*, he will serve the man who buys him for six years, and in the seventh he is to be set free. Any sacred account both creates morally observant (men), and it illuminates, through loftier feeling, men of understanding. In law, however, which our predecessors and the most renowned emperors established concerning these men who sell their own sons due to hunger or any other compelling need, it is held in many *capitula*, which we have determined unnecessary to set down here in their entirety. Still, that *capitulum*, which we find to be in agreement with sacred ecclesiastical rule for the most part, we decided to place here the necessary (section), in which it says: ‘That (if) any

<sup>69</sup>Ansegius, III, c. 29, pg. 586-587.

<sup>70</sup>See Levit. 25, particularly verses 39-41.

fuerint, si aliquis eos redemerit, ipsi, qui redempti sunt, procurent, ut tantum pretium redemptori suo donent, sicut ab eo redempti fuerunt, et in sua libertate permaneant. Si autem ecclesia eos redemerit, gratis sine aliqua compositione liberi fiant. Quod et nos per regnum una cum consensu et fidelium nostrorum consilio observari regia auctoritate praecipimus. Et si quis dixerit, quia non vult aut tempore famis aut pro alia necessitate pretium suum dare pro libero homine, si semper illum servum habere non debet, attendat, quid ei Dominus per apostolum suum dicat: ‘Qui habuerit’, inquit, ‘substantiam huius mundi et viderit fratrem suum necesse habere et clausit viscera sua ab eo, non manet caritas Dei in eo.’ Et qui non habet hanc caritatem, etiamsi ad martyrium et ad

freeborn person, no matter what need or necessity of hunger compels him, should sell his own children or should sell himself, we wish it to be observed (that) the buyer, if he buys (them) for five *solidi*, is to receive six; if ten, he is similarly to receive twelve *solidi*; and if more, the increasing of price is to following according to the previous reckoning.<sup>71</sup> Also, (according to) St. Gregory concerning these men,<sup>72</sup> who had been seized in the *pagi*, if anyone should redeem them, they themselves, who had been redeemed, are to arrange so that they may give their redeemer such value as (that which) they had been redeemed by him, and they are to remain free. If, however, the church should redeem them, they are to be made free without any arrangement. Because we, together with the consensus and counsel of our *fideles*, order (this) to be

<sup>71</sup>See Valentinian III's Novel 33 (Pharr, *Theodosian Code*, 544). It is cited as Novel XI in *Lex Romana Visigothorum*, ed. Gustavus Haenel (Berlin, 1949), 290-292. See Ganshof, *Droit romain*, 36-37; and Nelson, "Translating," 96, for discussions of this direct citation of Roman law.

<sup>72</sup>See Gregory I, MGH, *Ep.* 1, IV, no. 17, pg. 250, on redemption of captives.

ignem se tradiderit, sine ista caritate remissionem peccatorum suorum habere non poterit, et nullatenus in regnum Dei intrabit, quia pro Deo suos denarios vel suam annonam, quae a Deo accepit, dare non indurat, cum Deus seipsum et sanguinem suum pro eo in cruce clavis et lancea transfixus fudit. Et quia hominum ingenia, qui Deum non timent, diabolo suadente multa mala excogitant, potest fieri, ut, qui tales homines liberos necessitate, ut diximus, cogente in servos suscipiunt, in alteras partes illos dispendant et vendant. Propterea una cum consensu et fidelium nostrorum consilio constituimus, quod in antiquis legibus decretum invenimus, ut, si huiusmodi personas aliqui aut ad extraneas gentes aut ad transmarina loca transferre aut venundare praesumpserint, ipse, qui hoc contra statuta praesumpserit, constitutionem regii banni

observed, through our royal authority, throughout the kingdom. And if anyone should say, due either to the necessity of hunger or any other need, that he does not wish to give his own payment on behalf of the free man, if he ought not always have this servant, he is to listen carefully to that which the Lord said, through his apostle: ‘He who will have’, it is said, ‘the substance of the world and will see his brother in need and will close his heart to him, the charity of God does not endure in him.’<sup>73</sup> And whoever does not have this charity, even if he should surrender himself to martyrdom and fire, without that charity he will not be able to have the remission of his sins, and by no means will he enter into the kingdom of God, because he is too hard-hearted to give for God his own *denarii* or food, which he received from God, when God expended himself and His

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<sup>73</sup>1. Joh. 3,17.



componat. Et si talis homo antea liber, usque dum in tali servitio fuerit, de libera femina filios habuerit, ipsi filii liberi permaneant, sicut in praefato XXIX. capitulo III. libri capitulorum decessorum ac progenitorum nostrorum habetur ‘de eo, qui se loco wadii in alterius potestatem commiserit’; salva constitutione legis Romanae in eis, qui secundum illam vivunt.

blood for him, transfixed on the cross by nails and lance. And because the contrivances of men, who do not fear God, devise many evils through the urging of the devil, it is able to happen that they, who take in such free men as servants by compelling (them) through necessity, as we said, may dispose of and sell those men in other regions. Therefore we decree, together with the consensus and counsel of our *fideles*, what we found decreed in ancient laws,<sup>74</sup> that if anyone should presume to transport or to sell such people either to foreign peoples or to overseas places, he, who presumed (to do) this against the decrees, is to pay (according to) the decree of the royal *bannum*. And if such a man formerly free, so long as he should be in such *servitium*, should have sons from a free woman, those sons are to remain free, as is held in the aforementioned

<sup>74</sup>See note 71 on Valentinian III’s Novel.

35. Et sciant comites nostri, ‘quia per singulos comitatus missos nostros dirigemus, qui specialiter de his, quae nunc constituimus, inquirent, qualiter in his nostram iussionem adimplere certaverint’, sicut in secundo libro capitulorum decessorum ac progenitorum nostrorum continetur, capitulo XVIII; ‘et quicumque neglegens inde inventus fuerit, praecipiemus, ut ante nostram praesentiam venire iubeatur et rationem reddat, utrum hoc, quod iussimus, facere noluerit aut non potuerit aut, si aliqua re praepediente id

twenty-ninth *capitulum* of the third book of *capitula* of our predecessors and ancestors ‘concerning him, who places himself, in place of *wadium*, into the power of another’;<sup>75</sup> safeguard by the decree of Roman law those who live according to that (code).

35. And our counts are to know, ‘because we will send our *missi*, who are to investigate in particular concerning these things which we now decree, through each county, just as (the counts) are to have endeavored to fulfill (them) according to our order’, as is preserved in the second book of *capitula* of our predecessors and ancestors, *capitulum* eighteen; ‘and whoever has been found from that time disregarding (our decree), we will order that he is to be ordered to come before us and render (his) account, whether he had not wished to do

<sup>75</sup>Ansegisus, III, c. 29, pg. 586-587.

facere non potuit, cur nobis ipsam  
impossibilitatem ad tempus non  
adnuntiavit. Quia, si ipse hoc non voluit  
aut suae neglegentiae causa non potuit, nos  
talem invenire volumus, qui hoc, quod  
iubemus, servare velit aut possit.’

36. ‘Volumus, ut’, sicut in secundo libro  
capitulorum decessorum ac progenitorum  
nostrorum continetur, capitulo XXIV,  
‘haec capitula, quae nunc et alio tempore  
consulta fidelium nostrorum a nobis  
constituta sunt, a cancellario nostro  
archiepiscopi et comites eorum de propriis  
civitatis modo aut per se aut per suos  
missos accipiant; et unusquisque per suam  
dioecesim ceteris episcopis, abbatibus,  
comitibus aut aliis fidelibus nostris ac  
transcribi faciant, et in suis comitatibus

what we ordered or he was not able or, if  
he was not able to do it due to any  
obstruction, why he did not report this  
inability to us in a timely fashion. Because,  
if this man did not wish this or was not  
able because of his own negligence, we  
wish to find a man who wishes and is able  
to pay heed to what we order.’<sup>76</sup>

36. ‘We wish, that,’ as is preserved in the  
second book of *capitula* of our  
predecessors and ancestors, *capitulum*  
twenty-four, ‘the archbishops and their  
counts receive now from our *cancellarius*  
either by their own hand or by their *missi*  
these *capitula*, which now and on another  
occasion have been decreed by us with the  
counsel of our *fideles*, concerning their own  
*civitates*; and each is to cause them to be  
copied through their own diocese for the  
remaining bishops, abbots, counts, or our

<sup>76</sup>Ansegius, II, c. 18, pg. 535-537.

coram omnibus relegant, ut cunctis nostra ordinatio et voluntas nota fieri possit. Cancellarius autem noster nomina episcoporum et comitum, qui ea accipere curaverint, notet, et ea ad nostram notitiam perferat, ut nullus hoc praetermittere praesumat.<sup>77</sup>

37. Et quoniam fideles nostri in istis, quae in Sequana fiunt, et in aliis operibus laborant et heribergum nostrum, quod praeterito anno hic fieri iussimus, homines de illa parte Sequanae in istas partes venientes et de istis partibus in illas partes euntes destruxerunt per occasionem, quia in illo contra debitam reverentiam manere coeperunt, et nunc istud heribergum non sine labore et dispendio fidelium nostrorum fieri fecimus: volumus et

other *fideles*, and they are to read it before everyone in their own *comitatus*, so that our decree and will may be made known to all. Our *cancellarius*, moreover, is to record the names of the bishops and counts who arrange to undertake these, and bring them to our notice, so that no one may presume to omit this.<sup>77</sup>

37. And because our *fideles* are to labor on those projects, which are on the Seine, and on other duties, and because men crossing back and forth across the Seine have destroyed our royal lodging,<sup>78</sup> which in the past year we ordered to be made here, when the occasion offered (them an opportunity to shelter there), and since they began to stay there contrary to the respect owed (to us), and we did not now cause that royal lodging to be made

<sup>77</sup>Ansegisus, II, c. 24, pg. 540-541.

<sup>78</sup>See Niermeyer, *Lexicon*, 482: *haribergum*, for translation of *heribergum* as ‘army camp’. Simon Coupland, “The fortified bridges of Charles the Bald,” *Journal of Medieval History*, vol. 17 (1991): 5, translates it as ‘hunting lodge’.

expresse mandamus, ut, sicut nec in nostro  
 palatio, ita nec in isto heribergo aliquis alius  
 sine nostra iussione manere praesumat nec  
 illud aliquis destruat. Quodsi aliquis  
 praesumpserit et a custodibus, quos ad hoc  
 deputatos habemus, nobis notum factum  
 fuerit, non sine debita vindicta  
 praesumptor evadet. Quia semper parati  
 esse volumus et vos paratos esse iubemus,  
 ut in istis partibus et in aliis quibuscumque  
 nobis necesse fuerit, et contra paganos et  
 contra alios quoscumque, sicut consuetudo  
 fuit et vestri antecessores nostris  
 antecessoribus auxilium praebuerunt et vos  
 nobis debitum et necessarium adiutorium  
 exhibuistis, ita nunc et semper communiter  
 ad Dei voluntatem et sanctae ecclesiae  
 atque istius christianitatis defensionem et  
 nostram communem salutem et pacem  
 obtinendam et defendendam in omnibus,  
 quantum Deus auxilium praestare dignatus  
 fuerit, parati semper et in omnibus simus.

without labor and the expense of our  
*fideles*: we wish and expressly order that,  
 just as not in our royal residence, therefore  
 neither in that royal lodging should anyone  
 presume to stay without our command, nor  
 should anyone destroy it. And if anyone  
 presumes and it is made known by the  
 guards, whom we have posted to this spot,  
 the presumptuous person will not escape  
 without due punishment. Because we wish  
 to be prepared and we order you to be  
 prepared, as we think it will be necessary in  
 those regions and in others, both against  
 pagans and against others, just as it was the  
 custom that your predecessors provided  
 aid to our predecessors and you presented  
 to us the owed and necessary assistance,  
 thus now and always jointly (in order to)  
 secure and defend in all places the will of  
 God and the holy church and the defense  
 of Christianity and our common health  
 and peace, so much as God has deigned to

**(C) Et post haec omnia lecta:**

1. Monemus fidelitatem vestram, ut haec firmiter observetis et semper sicut Dei et nostri dilecti fideles parati sitis, ut, si necessitas nobis evenerit aut contra paganos aut contra quoscumque alios, ut statim, quando unicuique nuntius venerit aut nobis necesse audierit, sine ulla dilatione hostiliter praeparatus in Dei et nostrum servitium ad communem utilitatem possit movere et certissime nobis occurrere. Et volumus et expresse mandamus, ut, quicumque istis temporibus castella et firmitates et *haias* sine nostro verbo fecerint, Kalendis Augusti omnes tales firmitates disfactas habeant; quia vicini et circummanentes exinde multas depraedationes et impedimenta sustinent.

supply aid, we are always and in all places prepared.

**(C) And after, all of these (are to be) read:**

1. We remind you of your fidelity, so that you may steadfastly observe this and always be prepared as the esteemed *fideles* of God and of us, that, if the necessity came about in our mind either against the pagans or against anyone else, as soon as a messenger came to him or he heard something important from us, without any delay he is to be able to set out and most reliably to present (himself) to us, prepared with the necessary equipment for military service, in the service of God and of us for the general good. And we wish and expressly command that whoever constructs in these times *castella* and *firmitates* and *haias* without our order, on the Kalends of August<sup>79</sup> they are to have pulled down all such *firmitates*,

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<sup>79</sup>August 1.

Et qui eas disfacere non voluerint, comites, in quorum comitatibus factae sunt, eas disfaciant. Et si aliquis eis contradixerit, ad tempus nobis notum facere curent. Qui si hoc, sicut mandamus, adimplere neglexerint, sciant, quia, sicut in istis capitulis et capitularibus praedecessorum nostrorum continetur, tales comites quaeremus et in illorum comitatibus constituemus, qui nostrum mandatum facere velint et possint.

2. Et qui interpellatus est, ut hic aliquam causam debeat diffinire, instet, usquequo diffinita sit ratio, de qua interpellatus habetur. Et qui pro sua causa hic

because their neighbors and those living nearby put up with much pillaging and hindrances as a result. And (if) any of these men are not willing to pull them down, the counts, in whose counties they have been built, are to pull them down. And if anyone objects to the count's actions, he is to see that it is made known to us at this time. If anyone neglects to carry out this obligation as we order, the counts are to know, because, just as is preserved in those *capitula* and capitularies of our predecessors,<sup>80</sup> we will seek such men who are willing and able to accomplish our command as counts and station them in the counties of those (who fail to do so).

2. And whoever has has been appealed to, so that he may be responsible to settle any case here, he is to pursue (it) until an account has been proven, concerning

<sup>80</sup>See Ansegisus, II, c. 18, pg. 535-537. Punishments for royal agents are mentioned in cc. 20, 26, and 35, above.

demorandi habet necessitatem, et ipse nobiscum stare poterit, quantum ei necessitas fuerit. Sed et vassalli nostri cum tantis hominibus, sicut eis commoditas fuerit, nobiscum remaneant et nobiscum pergant.

3. Vos autem alii, sed et ipsi, qui nobiscum remanebunt, in eundo et in patria remanendo et ad nos redeundo pacem a nobis communiter confirmatam servantes ite cum Dei et nostra gratia. Et Deus nobis concedat, ut cito et per plures annos sani et laeti nos invicem videamus et de Dei super nos misericordia et gratia gaudeamus.

which the appealed is held. And he needs to be delayed for his case here, and he will be able to stay with us, so great is the need for him. And also our *vassalli*, with as many men as is suitable for them, are to remain with us and proceed (in this endeavor) with us.

3. You others, and also those who will remain with us, in departing and in staying in (your) *patria* and in returning to us, observant of the peace commonly confirmed by us, go with our thanks and that of God. And let God grant to us that we may mutually soon and for many years appear healthy and prosperous and that we may rejoice on account of the mercy and good will of God above us.



## Glossary

Alodes	Land held with full property rights.
Antiqua consuetudo	Ancient custom. In the Edict, this usually refers to the Theodosian Code.
Arma	Weapons.
Bannire	To summon to court.
Bannus/bannum	A royal order, backed by the punishment of a fine. The term is used as a synonym for this fine in the Edict. Since the term's translation is contextual, I have left it as <i>bannum</i> when referenced as a royal order, and translated it as 'fine' when indicating a monetary penalty.
Beneficium (pl. Beneficia)	Literally 'good deed'. The meaning of this is flexible, but by the mid-ninth century, this usually referred to a grant of land in exchange for military service. This grant was revocable by the king, but it was usually heritable, in practice.
Brevis	List, or digest.
Brunia	Mail coat.
Caballus	Horse.
Cancellarius	A scribe, or notary. This term can indicate an official in charge of writing and authenticating documents.
Capitulare	Capitulary, or edict. In the Edict, it is usually used when referring to a body of <i>capitula</i> issued by previous Carolingian kings. I translate this as 'capitulary'.
Capitulum (pl. Capitula)	Literally 'chapter', referring in this context to specific decrees within the larger framework of the capitulary.
Castellum (pl. Castella)	A fortified place of a lesser order than the <i>urbes</i> constructed in the late Roman empire. Supp. C. 1 is likely referring to the construction of a private (and illegal) stronghold.
Census (pl. Censa)	A tax.
Civitas (pl. Civitates)	Administrative center. These were originally Roman, and they continued to be home to bishops throughout the early medieval period.
Colonus (pl. Coloni)	A free peasant who owes some customary dues to a lord, either in renders or labor

	service or both. This could refer to a free holder of a tributary <i>mansus</i> .
Comes (pl. Comites)	The count, a public office holding regional power under the authority of the king. The count was responsible for judicial proceedings within his region of control (or <i>comitatus</i> ), and he led the military contingent for that region when the king mobilized the army.
Comitatus (pl. Comitatus)	County. The region under the authority of a particular countship. The entirety of the kingdom was separated into these regions.
Denarius (pl. Denarii)	A silver coin. This was the most common denomination of money in the Carolingian empire. Twelve <i>denarii</i> equaled one <i>solidus</i> .
Exercitalis	Liabile for military service. This refers particularly to those who could be called up for the <i>expeditio</i> , the campaigning army.
Expeditio	The expeditionary army.
Fidelis (pl. Fideles)	Literally ‘faithful man’. This term referred to the men who held regional and local power in the Carolingian empire, who were consulted by the king in the formulation of royal decrees—the aristocracy.
Firmitas (pl. Firmitates)	Defensive works.
Forbannum	Provisional outlawry.
Francus (pl. Franci)	Frankish man. The Carolingians were a Frankish dynasty, but the Carolingian empire was constituted of a range of different peoples, many of whom were subject to different sets of laws.
Haias	Palisades.
Barigildus (pl. Barigildi)	Men who are required to attend a count’s <i>mallus</i> .
Harmiscara	An act of public penance, involving an act of public humiliation in the presence of the king (e.g. carrying a saddle on one’s back).
Heribannus	A fine for avoidance of military service, with the particular amount dependent on the wealth of the violator.
Heribergum	Royal lodging.
Honor (pl. Honores)	A grant of power/office by the king, usually with an accompanying grant of land. This term has some overlap with <i>beneficium</i> (see above).
Hostis	The expeditionary army.

Iectivus	One who fails to swear a legal oath. This can refer to a failure to act as a witness in court, or to the breaking of a contract more generally.
Immunitas	An area granted immunity from the local agents of public authority by the king.
Iudex (pl. Iudices)	This can refer to either someone who gives judgement in court or who fills an advisory role for a judge. In the Edict, the usage of the term implies that a <i>iudex</i> could also be involved with the promulgation and enforcement of law.
Kalends	The first day of the month.
Lex	Literally 'law', but it can have a wide variety of meanings, depending on the context of its use. See the discussion of Carolingian legislation in the introduction for the various meanings within the capitulary tradition.
Lex Romana	Roman law. The Frankish legal system allowed for 'national' laws, or 'laws of personality', within the kingdom. Roman law was one such system, though the Edict indicates a transformation in the term from personal law to territorial law (see pg. 19 above).
Mallus	A local judicial assembly, or court. Counts were expected to hold these within their districts.
Mannire	To sue.
Mansus (pl. Mansi)	A standardized measure for the valuation of land.
Minister (pl. Ministri)	An agent of either public or ecclesiastical authority.
Ministerium	The jurisdiction of a public agent.
Missus (pl. Missi)	Literally a 'sent man', this was a royal agent appointed to see the king's will carried out throughout the kingdom. The <i>missus</i> was expected to oversee the promulgation of capitularies, and to inspect the actions of counts. Other officials, such as counts, could employ <i>missi</i> of their own.
Modius	A unit of measurement for dry goods, such as grain. It was roughly equivalent to two gallons.
Monetarius	Minter/mint master.
Nortmanni	The Northmen, or Vikings.

Ordo	Social or professional class. In the Edict, penalties are often dependent on one's place in society.
Paganos	A pagan. In the context of the Edict, this refers to the Vikings.
Pagensis (pl. Pagenses)	A free inhabitant of a <i>pagus</i> . In the context of the Edict, it refers to the men a count leads to war from his own <i>comitatus</i> .
Pagus (pl. Pagi)	County, similar to <i>comitatus</i> , but referring particular to the geographical area rather than a district of comital authority.
Paraveredus (pl. Paraveredi)	A post-horse, part of the system of stopping places ( <i>mutationes</i> ) for royal messengers around the realm.
Patria	Homeland, or fatherland.
Placitum	An assembly, where capitularies were generated.
Potens	Literally 'powerful man', refers to people with social and political power. Under the Carolingians, this likely refers to magnates with access to the king.
Princeps	Literally 'foremost man'. In the Carolingian context, this would refer to the ruler of a subkingdom within the larger <i>regnum</i> .
Regnum (pl. Regna)	Literally 'area ruled'. This was a flexible term under the Carolingians, capable of describing the entirety of the empire, a particular kingdom (such as Charles the Bald's West Francia), or a subkingdom within those particular kingdoms (such as Aquitaine). I translate this term as 'kingdom'.
Res publica	Literally the 'public thing'. It referred to the realm, as a coherent ideological unit, and it reflects the Carolingian effort of <i>imitatio imperii</i> . In the Edict, it is often part of a description of royal agents, or 'agents of the <i>res publica</i> '. I translate this as 'realm'.
Rewadiatum (from rewadiare)	Pledged to fulfill a specific obligation or debt through use of a <i>wadium</i> .
Sacramentum	An oath. It could refer to the general oath sworn by the men of the kingdom to the king, a practice established under Charlemagne, to specific oaths from men holding particular offices, such as that required of minters in the Edict, or to particular legal oaths, such as that of the

	<i>scaftlegi.</i>
Scabinus (pl. Scabini)	A local landholder appointed to act as a judge in court.
Scaftlegi	The laying down of arms after a campaign.
Servitium	Servitude, an unfree state. It could also refer to 'service' more generally.
Servus (pl. Servi)	An enslaved or unfree tenant on a tributary <i>mansus</i> .
Sextarius	A Roman unit of measure, either dry or liquid, of about a pint.
Solidus (pl. Solidi)	A gold coin. This type of coin was much rarer than the <i>denarius</i> , but it was used as a unit of account, as seen in the form of fines allotted for violating the king's <i>bannum</i> . One <i>solidus</i> equaled twelve <i>denarii</i> .
Vassallus (pl. Vassalli)	Vassal of the king.
Verbum	Word. In the context of the capitularies, the <i>verbum regis</i> (word of the king) is an order backed by royal authority, and is the key to the authority of the capitularies themselves.
Vicarius	A subordinate to/agent of the count.
Viccomes	A deputy to the count, who could act with full comital powers in the count's absence.
Vicus (pl. Vici)	A village or settlement. This can also refer to an administrative subdivision of a county.
Villa (pl. Villae)	An estate.
Wadium	A pledge represented by the offer of a physical object. This object could either be symbolic, or something substantial (acting as a type of bail).

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## Appendix: References to prior decrees in the Edict of Pîtres

This table indicates references and quotations from previous capitularies found in the *capitula* of the Edict of Pîtres. References to the collection of Ansegisus have been taken from the notes of the MGH edition of the Edict, though I have updated them to refer to pagination from the the MGH's newer edition of the *Collectio Capitularium Ansegisi Abbatis*. There are a number of instances when the Edict references a different number than the relevant *capitulum* in Ansegisus, either due to differences in the manuscript tradition or simple scribal error. I have drawn attention to these occurrences in my footnotes for the translation, and I have marked them in the table below with an asterisk (\*). If a previous *capitulum* is referenced only generally, I have marked a likely source with a plus sign (+).

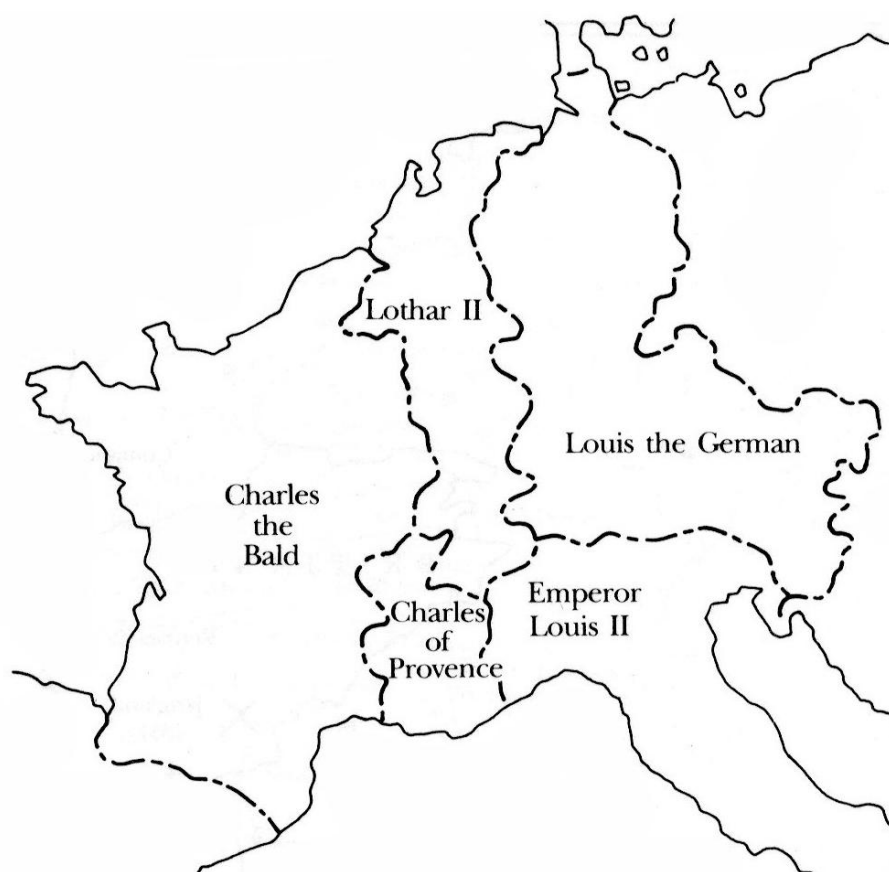
C. 1	Ansegisus, II, c. 23, pg. 540
C. 4	Ansegisus, II, c. 24, pg. 540-541
C. 8	*Ansegisus, IV, c. 30, pg. 641
C. 9	Ansegisus, III, c. 10, pg. 576
C. 10	Ansegisus, II, c. 18, pg. 535-537
C. 12	+Ansegisus, III, c. 13, pg. 578
C. 13	*Ansegisus, IV, c. 31, pg. 641-642
C. 15	Ansegisus, IV, c. 30, pg. 641

C. 16	*Ansegisus, IV, c. 31, pg. 641-642
C. 17	Ansegisus, IV, c. 31, pg. 641-642
C. 18	+Ansegisus, IV, c. 30, pg. 641; and <i>ibid.</i> , IV, c. 31, pg. 641-642 Ansegisus, III, c. 26, pg. 583-585
C. 19	Ansegisus, I, c. 139, pg. 509
C. 20	Ansegisus, III, c. 90, pg. 613 Ansegisus, III, c. 10, pg. 576
C. 21	MGH, <i>Cap.</i> , II, no. 271, pg. 301-302
C. 22	*Ansegisus, IV, c. 56, pg. 654
C. 23	+Ansegisus, IV, c. 31, pg. 641-642
C. 25	Ansegisus, III, c. 75, pg. 607-608 Ansegisus, III, c. 6, pg. 572-573
C. 26	+MGH, <i>Cap.</i> , II, no. 266, c. 8, pg. 287
C. 27	MGH, <i>Cap.</i> , II, no. 186, c. 7, pg. 7 Ansegisus, III, c. 14, pg. 578-579 +MGH, <i>Cap.</i> , I, no. 158, c. 18, pg. 319-320

C. 28	+MGH, <i>Cap.</i> , I, no. 77, c. 15, pg. 172 Ansegisus, III, c. 15, pg. 579 Ansegisus, III, c. 86, pg. 612 *Ansegisus, IV, c. 35, pg. 643 *Ansegisus, I, c. 135, pg. 508-509 *Ansegisus, I, c. 137, pg. 509 Ansegisus, II, c. 31, pg. 553-554 *Ansegisus, IV, c. 18, pg. 629-631 *Ansegisus, IV, c. 45, pg. 649
C. 31	+Ansegisus, III, c. 18, pg. 580 +Ansegisus, Appendix II, c. 2, pg. 670
C. 33	+Benedictus Levita, Add. IV, c. 114 +Ansegisus, IV, c. 26, pg. 637-638
C. 34	Ansegisus, III, c. 29, pg. 586-587
C. 35	Ansegisus, II, c. 18, pg. 535-537
C. 36	Ansegisus, II, c. 24, pg. 540-541
Supp. C. 1	+Ansegisus, II, c. 18, pg. 535-537

## Maps





Division of the Carolingian Empire, AD 855

Source: Janet Nelson, *Charles the Bald* (London, 1992), pg. 319.



Region around Pîtres in the Seine valley

Source for map data: "Pîtres, France." 49°19'7.06" N and 1°13'33.68" E. **Google Earth.** July 14, 2006. February 18, 2013.