



UNIVERSITY OF LEEDS

This is a repository copy of *Ceremony, charters and social memory: property transfer ritual in early medieval Catalonia*.

White Rose Research Online URL for this paper:
<http://eprints.whiterose.ac.uk/146286/>

Version: Accepted Version

Article:

Jarrett, J orcid.org/0000-0002-0433-5233 (2019) Ceremony, charters and social memory: property transfer ritual in early medieval Catalonia. *Social History*, 44 (3). pp. 275-295. ISSN 0307-1022

<https://doi.org/10.1080/03071022.2019.1618570>

© 2019 Informa UK Limited, trading as Taylor & Francis Group. This is an author produced version of an article published in *Social History*. Uploaded in accordance with the publisher's self-archiving policy.

Reuse

Items deposited in White Rose Research Online are protected by copyright, with all rights reserved unless indicated otherwise. They may be downloaded and/or printed for private study, or other acts as permitted by national copyright laws. The publisher or other rights holders may allow further reproduction and re-use of the full text version. This is indicated by the licence information on the White Rose Research Online record for the item.

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.



eprints@whiterose.ac.uk
<https://eprints.whiterose.ac.uk/>

**Ceremony, charters and social memory: property transfer ritual in early
medieval Catalonia**

Jonathan Jarrett, University of Leeds

j.jarrett@leeds.ac.uk,

ORCID: 0000-0002-0433-5233

ABSTRACT

Work on the use of documents in the Middle Ages has now accepted that written record-keeping in Europe did not collapse with Roman rule, to be replaced only by orality and memory, but continued throughout the period, albeit to greater or lesser extents from place to place. Nonetheless, much remains unclear about how documents were actually used and understood following the Roman collapse, and how far that reflected continuity with the past. Using the numerous early medieval charters from modern Catalonia, this article argues that, instead of registration in public archives as under Rome, documents here were validated by social consensus about their contents, created by repeated recitation of the texts. This could even be used to create new documents. The article argues that this was an innovative replacement of older institutions of record intended to enable continuing document use, but that it blurs categories both of literacy and orality and of continuity and change; continuity of the land charter was here maintained despite the discontinuity and irrelevance of many other practices. Both documents and their users were agents in these processes, in ways that can instruct us about institutional survival and replacement in times of social change.

KEYWORDS: literacy, Catalonia, documents, orality, social memory

The relationship of societies and the documents they create is a complex one. Inherent to the purpose of a documentary record is the need to carry information further or more reliably than could be done by word of mouth, which requires clarity and comprehensibility. Despite this, the use of the written word can establish a power gradient along the plane of literacy, where those better able to use and manipulate documents have an advantage over the less or non-literate. This can result instead in documents which are intelligible only to a restricted group and obscure to those outside it, a tendency we express with such words as ‘legalese’, ‘jargon’ or, tellingly, ‘small print’, text which we find hard to read. In these formulations writing can be a tool of domination, but only where superstructures of reference exist against which the inner meaning of the text can be validated and turned into action; if people in power do not know what the document means or respect the expertise which created it, then it cannot serve such purposes.¹

So far so obvious, but what happens with documents, their creators and their users when such superstructures collapse? The case explored in this article falls in the period known as Late Antiquity or the early Middle Ages, the centuries between the breakdown of Roman rule in the West and the development of the bureaucratic monarchical governments of the high Middle Ages.² Of this era, let us say around 500–1100 AD, it would once have been sufficient simply to use the term ‘Dark Ages’ by way of indicating discontinuity in any Roman practices of documentation, education and literacy.³ Scholarship since the 1960s makes this now impossible to maintain: even if evidence of it has survived poorly, it is clear that the use of writing, not just as an exclusive badge of membership in an ecclesiastical elite but as a general tool of social operation, survived in the post-Roman world in many contexts.⁴ Be it the city archives of Italy, the monastic ones of Burgundy or slate records from the

Spanish *meseta*, we have good reason to believe that there was probably no point in the early Middle Ages where at least most of the polities around the Mediterranean were not still using documents to record their transactions, possessions, and so on, whether on parchment or papyrus or on slate, stone or wood.⁵ As Julia Smith has put it, Europe after Rome was a ‘document-minded’ culture.⁶

Yet few would argue for complete continuity of the institutions of record which had once structured the creation of those documents, the imperial administration and the civic courts and city archives at which, in order to ensure the functioning of its tax system, the late Empire had required transfers of property to be recorded.⁷ Such municipal registers can be documented in Italy until the sixth century, but had by then considerably changed their purpose, and the same may be true in the area of modern France.⁸ Elsewhere, there is more or less no evidence of their survival.⁹ We still have documents of property transfer, however, in increasing numbers from the mid-sixth century onwards, with clusters in certain places, and perhaps the greatest spread of such dense preservation is that exploited in this article: around 7000 documents of the period *c.* 800-1000 from the area that is now (Old) Catalonia.¹⁰ Close study of these documents reveals how people in this area, and presumably therefore in others, reconstructed their use of the written word around the absence of the old institutions from which they inherited their forms of documentation. It also reveals communities manufacturing, from old and new materials, their own local forms of transaction, record, validation and archiving of the documents they still felt it necessary and useful to employ.¹¹ In doing so, the communities studied here preserved old forms while creating a new logic of documentary record. These findings thus complicate any simple evaluation of continuity and change in the wake of large-scale institutional collapse.

Making a document

Before going further, the actual processes in creation and use of a transactional document are worth considering. There are some of these that we can suppose *a priori*, things that simply have to have taken place for what we now have to exist in the form that it does.¹² These may be distinguished as five stages, against all of which cavils can be raised but which probably describe a usual pattern:

1. Initially, some transactors agree the nature, extent and terms of the future transaction.
2. With that agreement in place, a document is drawn up. This is itself a multiplex process, which is studied in greater detail below. In the immediate context, however, it is enough to say that a document was usually involved. There are fleeting records of oral transactions from this area—a 1020 charter of Count Guifré I of Cerdanya refers to property ‘that I did not give to her by charter, but rather I handed it over by simple donation’, and a will promulgated at a cathedral of Elna in 1030 had been made by the testator, although he was a priest, standing in his doorway and shouting it to all within earshot, with no written testament ever being made—but the existence of so many written records shows that the latter were often, and perhaps usually, desirable.¹³
3. To have validity beyond the transactors, the document must be authenticated or validated in some way likely to be accepted by third parties. This must evidently happen after the composition of the record, so that it is clear what is being validated; after all, even the proverbial ‘blank cheque’ is recognizable as such because it is not, in fact, blank, just incomplete. In the Roman period this was done by the transactors taking their agreement to court and depositing it on public

record; in the later Middle Ages it would be often done by having it recorded by a notary; in the early and central Middle Ages the result was achieved with witnesses.¹⁴ That is to say, some persons were located who would testify to the agreement, and these were named in the document itself, usually with their signatures, albeit sometimes written for them by the scribe.¹⁵

4. Fourthly, the contents of the document must be made known to those incidentally affected, neighbours, locals, relevant authorities, and so on, for otherwise it cannot change their understanding of the situation.
5. Fifthly, if we have it, the document must have been stored somewhere, and so must many others that we do not.

There are potential quibbles with all of these, of course. It is possible to imagine a transaction in which one party set the terms for the other, without the latter's involvement, though it seems as if that should be rare. Early medieval cases are known where a document was not originally drawn up.¹⁶ We may also imagine cases in which witness names were applied without their knowledge, and we have many cases where witness names are not preserved and may not, therefore, ever have been recorded.¹⁷ Documents exist the desired outcome of which did not occur, and others may record deals or agreements that were changed after the document was written.¹⁸ The papyrus dumps and Genizah stashes which preserve huge quantities of comparable transactional and administrative material in the Eastern Mediterranean remind us, too, that even if documents were sometimes stored they could also be thrown away, and a few stories tell us that documents were also destroyed for various reasons, in the early Middle Ages just as at other times.¹⁹ As we shall see, this was a possibility that also worried legislators. Nonetheless, in general the above schema

seems as if it should cover the creation, use and archiving of a normal transactional document.

By its nature, the step in this process of which we know the least is the fourth, publication. The agreement to transact should be recorded in the document; the composition of the document is intrinsic in its existence, as is whatever validation it contains; and its archiving is how we have it, even if the whole transmission to the historian is not always apparent. The dissemination of the information in a document could only happen after its construction, however, so is unrecoverable unless someone reacts to it in other documentation, or unless law or recorded norms indicate how publication ought, at least, to take place. For the early Middle Ages such information is generally lacking. The Catalan documentation however offers us a rare sight of these processes, through a genre of document known as ‘making good a document’ (Lat. *reparatio scripturae*), and through this the other processes of social and documentary construction referred to in the introduction can be observed.²⁰

Replacing lost documents in early medieval Catalonia

While the historicity of the Catalan identity is not this article’s subject, some of the difference between the area and the rest of the Iberian peninsula indubitably goes back to the establishment there of a frontier of the Carolingian Empire, a revival of imperial rule in the West under Charles the Great or Charlemagne, King of the Franks, who united most of Europe between the Iberian Peninsula and Denmark under his rule during his reign (768–814 AD).²¹ Several territories south of the Pyrenees abandoned Muslim rule for Frankish in 785, and Charlemagne’s son Louis the Pious (814–40), then King of Aquitaine, conquered the rest of the area now known as

Catalunya Vella, ‘Old Catalonia’, in the first decade of the ninth century. Unlike the county of Aragón and the Basque Country, which were also incorporated into the Carolingian state at that time but soon escaped, this area remained thus connected to the world north of the Pyrenees, rather than that north (or south) of the Duero, until the end of the Carolingian royal line in 987, although the strength of that connection can be seriously questioned.²²

All this does not seem greatly to have altered documentary culture in the area, however, not least because the Carolingians allowed the locals to continue using the Visigothic Law which had operated here since before the area’s conquest by Muslim armies in 718–20.²³ It is in the Visigothic Law that we find the basis of the process of *reparatio scripturae*. Its Book VII, Title 5, Chapter 2, lays it out as follows, in the name of the Visigothic king Chindasuinth (642–53 AD) as part of a more general provision against forgery of documents:

If any person should steal, or deface, a document belonging to another, and should afterwards confess, in the presence of the judge, that he had stolen or defaced said document, and this confession should be corroborated by witnesses, said testimony shall have the same force in law as the destroyed or defaced document would have, if it still existed in its integrity. But if the contents of the document cannot be shown with certainty, he who drew it up shall be permitted to prove by his own oath, or by a witness, what said document contained; and the testimony so given shall establish the contents of said document.²⁴

It will immediately be seen that the actual process of replacement was neither the primary purpose of this law, nor intended to protect document owners against their own negligence or misfortune; but it is to such uses that it was primarily put in the 13 cases of its application known to me from Old Catalonia before 1030.²⁵ In all of these cases the original documents had been lost not to criminal action but by war, accident or natural disaster, or else by cause unspecified. Five such documents resulted from the re-establishment of what became the monastery of Saint-Michel de Cuxa in 878 after the obliteration of its predecessor, Saint-André d'Eixalada, and its archive, in a flood the previous year.²⁶ In a case heard at Sant Miquel de Manresa in the year 1000, fire had been to blame, and the judge thoughtfully adjusted his citation of the law to cover that eventuality, adding the phrase, 'should have burnt the document in a fire' to the beginning of Chindasuinth's original list of archival misfortunes.²⁷ In several cases the documents had been lost in an infamous Muslim attack on Barcelona in 985, losses made the worse, we are told in the documents, because the hapless count of the city had told his people to gather their charters and privileges inside the walls for safety.²⁸ In the other cases the documents were simply lost, without further details. In no case is theft part of the story. This kind of repurposing of available legislation to the circumstances of the day was quite typical of jurisprudence in this area and time, and did not make the replacement documents any less valid or operational.²⁹ Indeed, in the one instance when the Visigothic Law in Catalonia was updated between the death of the last Visigothic king in 720 and the redaction of the *Usatges de Barcelona* in the twelfth century, it required both the Frankish king and the pope in council, and even then reference was made to Roman law before either party would offer a solution.³⁰ Such circumstances, understandably, did not often arise, so there was arguably no other reasonable resort in the area when

the law needed to be updated. Our documents were, however, created in public gatherings, often in churches, to hear the witnesses who recalled the original state of affairs. It was this ceremony, as much as the resulting document, which secured the owners of the afflicted properties in their tenure by cementing in the memory of those present a state of affairs on which all concerned (or at least, all those present) could and did agree.³¹

One might imagine, therefore, especially given the apparent existence of witnesses to the original transactions who could thus be called upon to rehearse their memory of them in such a gathering, that the original transactions had also been thus cemented in a public performance. Happily, two of the documents of replacement under discussion seem to record just such a ceremony. These are a pair of oaths, written on the same parchment and relating to the same case from 879. In this, one Boso came to the cathedral of Vic, north-west of Barcelona, where a judge was on hand. He explained that he had lost, in unspecified fashion, two documents, one made for him by a couple called Domènec and Guisilda and the other by another couple Ermoarí and Farelda, both concerning lands in nearby Taradell.³² He was able to produce the original witnesses to the latter ceremony, who could apparently also remember the former one. In the 879 documents their testimony concerning both these earlier transactions is preserved, as follows:

There testify the offered witnesses whom the man by the name of Boso offered, in the face of the aforesaid judges for his scriptures, to prove or repair what he had lost. And these are the names of the witnesses who testify to this so and swear: Hucbald, Adalmar, Fredeleigo, Andrald, Ingilbert. We moreover, having been sworn by omnipotent God the Father and by his son Jesus Christ and the

Holy Spirit, which is in the Trinity the one true God, and by the relics of the apostle Saint Peter, whose basilica is sited in the county of Osona, in the see of Vic, upon whose sacrosanct altar where without conditions we join our hands together and or touch each other, swearing, say that we the above-written witnesses know, and well recall in truth, and saw with our eyes and our ears heard, and we were also present at that hour while those two people, by name the late Domènec and his wife Guisilda and Ermoarí and his wife Farelda, were in the county of Osona, in the district of Taradell, in the hamlet of Gaudilà. And thus the late Domènec made a little charter of sale to the man by the name of Boso, of all his inheritance which he had in the county of Osona within the limits of the castle of Taradell and in the hamlet of Gaudilà, and Ermoarí with his wife Farelda sold all their lands or a house, all their inheritance in Gaudilà's hamlet, to that same Boso. And we witnesses saw the selfsame documents confirmed and marked with the sign of the man named Domènec and his wife...³³

The document continues with clauses intended to make it clear that all the assets present on these lands were included, but then goes on to say what happened with the 'selfsame documents', which is the part most relevant for our immediate purposes:

And we witnesses were signatories, making marks in the little charter of Ermoarí, and the notary was recorded there: Joan the priest. We witnesses saw the selfsame documents confirmed and corroborated and marked with the sign of the sellers, Domènec and his wife and Ermoarí and his wife, and of those hearing and of the

chancellor... And we saw the selfsame documents handed over into the power of that same Boso, and I the already-said Domènec and his wife [*sic*], and Ermoarí and his wife handed them over, of their own spontaneous will, into the power of the selfsame Boso.³⁴ And we witnesses saw and heard the selfsame documents read and re-read, once, twice and a third time, in the hamlet of Gaudilà. And that same Boso had the selfsame lost documents, and it was evident.

Here therefore, uniquely to my knowledge, we also have recorded for us the phase of publication, in which the charters were apparently taken to the locality concerned and read, publicly, several times. This makes perfect sense as a way to manage that requirement, with both reiteration and the specificity of the occasion and place acting mnemonically.

Written models and oral testimony

One might, therefore, accept the document at face value, were it not for its mention of notaries and a chancellor.³⁵ These are the only uses of these titles I have so far located from the area that is now Catalonia before 1000 except in documents naming papal or royal officials, although persons using the title *notarius* do apparently appear occasionally elsewhere in northern Iberia.³⁶ Scribes in the plentifully surviving Catalan documents never use such titles, however, and no-one signing this document did either. This implies that there was a written model influencing the choice of words in these oaths, which forces one to consider in what other ways they may have been a constructed narrative.³⁷

That a model for such ceremonies existed elsewhere as well is indicated by two other documents from different locations, one from a meeting at Sant Segimon del Bosc in Girona in 938 and the one already mentioned from Manresa, somewhat to the west, from the year 1000.³⁸ In neither of these cases do we have a surviving original, but the texts of both as we have them start with more or less the same phrases, in the case of the Girona document as follows: ‘There testified the offered witnesses whom Countess Garsenda offered in the face of the aforesaid judges for the proving of their scripture that she lost...’. This appears in the Manresa document as: ‘There testified the witnesses Odsèn and his wife, Sabrosa by name, brought in the face of the aforesaid judge for the proving and restoration of their former scriptures of sale, which had been burnt in a fire...’.

The echoes here of the Taradell text are obvious, most notably the specification that they were ‘before the face’ of the relevant judge ‘for the proving and repair of documents’, although the different texts vary enough to show that the earlier ones are not the source of the later ones.³⁹ A similar general template, including the line ‘we saw with our eyes and heard with our ears’ that is present in all our documents here, was used for solemn sworn oaths right across Northern Iberia, but I have not found other uses of the formula ‘in the face of the aforesaid judge’, *in faciem de supradicto iudico*, in such documents, where the purpose of the oaths that form the text is only made clear deep within the document.⁴⁰

Although it is not possible for us to say with what materials any of the scribes here were working, some speculation about the possibilities may be justified. Medieval charters of any period were composed heavily of formulae, and these are best known to us now from collections of example texts known as formularies.⁴¹ One of these collections survives from the Catalan monastery of Santa María de Ripoll,

but as I have shown elsewhere, its compilation cannot predate 977, which is to say that it derives from, rather than being the source for, the charter texts of its wider area.⁴² Of a single text of Visigothic-period formulae which survives in Oviedo, there is very little echo in Catalonia, although where that echo is detectable it is in testamentary practice, a fact to which we return below.⁴³ Neither is there any sign of the particular phrases in use here in Frankish formularies of the time.⁴⁴ Recent work on the dissemination and use of law in early medieval Europe has suggested that small dossiers of useful citations and individual laws might have been maintained by scribes, and we could certainly imagine this for charters as well, but until such a scribal *vademecum* comes to light, perhaps in the binding of a suitably-provenanced manuscript codex, this can only be hypothesis.⁴⁵

If only because of their survival, therefore, it has seemed most likely to other scholars of such problems that charter scribes' primary resort for details of phrasing was in fact older charters. This is in some sense only to push the problem backwards; since it appears that the models in use here were not detectably Visigothic or Frankish, with the consequent implication that they were more recent and more local, a point of innovation or creation is still implied which we can no longer retrieve. Wendy Davies has recently suggested a date in the eighth or early ninth century for this layer of documentary creation in the areas of Asturias and Galicia.⁴⁶ I had previously suggested that the Frankish conquest of the Spanish March might have prompted such a local refreshing of documentary modes in what is now Catalonia, but Davies's observation of similar phenomena in the west suggests a larger, though less explicable or datable, process of change.⁴⁷

Both Davies and I, conducting similar analyses of formulaic usage, have observed tendencies, never total but measurable, for certain formulaic variants to

cluster in regions and micro-regions. In the case of Catalonia, these regions appear to map fairly closely to the diocesan structure of the March, with documents from within the ambit of the bishopric of Urgell using different, longer preambles than do those from near Barcelona, and so on.⁴⁸ In Davies's study the variation is more complex, which is probably because of the less formalised Church organisation in her areas; what could in Catalonia be done through bishoprics would, in the wider western areas, have had also to be done through monasteries and a plentitude of privately-owned churches and colleges of priests that did not necessarily answer to formal ecclesiastical control.⁴⁹ Nonetheless, a similar model of dissemination might be supposed in both areas, by which new priests were trained in their future responsibilities via larger church institutions, in Catalonia mostly cathedrals, before being sent out to take up local posts or seek preferment from suitably-endowed aristocrats, taking what they had been taught out to their localities.⁵⁰ While the bulk of this training would doubtless have been pastoral and liturgical in nature, we see it primarily through the tip of the iceberg that is these men's work as documentary scribes for their communities or patrons. In this scenario, while such scribes might indeed have carried away their own copies of the most relevant materials, the exemplar texts would have been at the centres that taught them, and might have included now-lost formularies or might simply have been those centres' own archives. Without more evidence, such hypotheses are as close as we can get to the documentary equipment of the redactors of the charters under discussion here.

This still does not tell us whence Ademar, writing at Taradell, conceived that his account of proceedings ought to feature notaries and a chancellor who cannot, in fact, have been there, and neither does it tell us why a small number of scribes, scattered over the Catalan counties both geographically and chronologically, all

believed that when one was holding a judicial meeting to replace a lost charter, rather than for any other purpose, the phrase to use was ‘in the face of the judge’. Some of the other language of these documents is, however, familiar from the oaths used in the declaration of wills, which the Visigothic Law required to be heard by persons who were themselves officially ‘heard’ by some chosen auditors, the whole ceremony being publicly witnessed by further persons who also signed the eventual document.⁵¹ It seems more likely than any other visible possibility, therefore, that such testamentary ceremonies had ultimately provided the model for these oaths about other sorts of document. Whether or not the choice to borrow this ritual was motivated by its procedural detail compared to that for document replacement, it also aggregated to the replacement ceremony the solemnity of the death and succession to property involved in a last will and testament, presumably serving to heighten the audience’s sensitivity to the details of the occasion. Here, as with the reinterpretation and even adjustment of the ancient law of the area, we see the readiness of these communities to turn their old institutional forms to new purposes.⁵²

Such formulae only constrained the basic set-up of the ceremonies, however; beyond the initial oath already described, much remained optional or dispensable. In the three Catalan cases discussed, the owners of the lost documents also swore that the content had been correctly recalled by their witnesses; in Boso of Taradell’s case that testimony was recorded in a separate document, albeit written on the same parchment, while in the others it was made part of the main record. In the Girona case, interestingly, one of the testators was a priest, and he swore that:

I indeed, the priest Sesula, read and re-read it very many times, and it was closed by the laws by the hand of the late Sendred by the impression of a signature and by the other signatories making their

impressions of signatures and the priest Genís wrote it and seeing and re-reading I knew firmly all the testimony of firmness of that same scripture....

Yet, the other witnesses claimed only to have heard them being read and re-read, ‘And we Teudalec and Ataulf, Iquilà and Guidiscle heard its reading and re-reading very many times and hearing knew all the testimony of the firmness of that same scripture’.⁵³ However, the specification of reading and re-reading is not included in the later Manresa document, so variation from the formula was allowable.

There was also variation in what was recalled by the witnesses. In the Taradell document the rough contents, the dates and witnesses and a few set phrases were reproduced, of which as we have seen some disconcertingly adopt the first-person voice of the deceased original transactor, but the Girona document contains an entire charter text, apparently recalled verbatim right down to notes that the witness signatures were written in another hand, although this is also said of the signature of the scribe responsible for the whole document, raising further worries about the force of written models over actual events.⁵⁴ Nonetheless, enough could apparently be recalled to reconstruct what we have, even if some details might have had to be fudged, and three of those recalling it had allegedly been among the original document’s witnesses only eight years before (‘and it was done in our presence and there was inserted the same scripture of sale’), so their recall was at least circumstantially possible.⁵⁵ At Manresa, meanwhile, the standard of recollection varies substantially across the nine different documents that were being replaced. This variation is understandable, given the apparently long chronological range between those documents: while one of the original sellers had survived to witness this ceremony, one neighbour to another of the properties when it had originally been

transferred is named as a viscountess Quixol, and she is otherwise only attested once, 62 years before.⁵⁶ All of this, along with the apparent lapses into direct quotation of the documents, suggests that authentic details were being recalled here, sometimes with a struggle. The twin implications of this, therefore, are firstly long association of the witnesses with the landowners, and secondly a considerable degree of local memory as to not just the details but the phrasing of documents those landowners had held.

Public ceremony and private memory

How had this level of recall been created? Two of our documents here are explicit about this, if frustratingly insufficient: the witnesses knew what they knew, 'rightly and truly', because they had either themselves read the lost documents or heard them read, and not just once but 'on many occasions', 'reading and re-reading'.⁵⁷ One immediately wonders what the occasion of this exposure to the vanished texts would have been. Medievalists' scenarios of this sort have often been set in monastic spheres, where the regular reading of texts inherent to monastic worship could have been adapted to include property documents. Indeed, some of the archive compilations of copied charters which medievalists call cartularies have been reckoned constructed for exactly this quasi-liturgical exercise of honouring the memory of donors.⁵⁸ This seems less likely in a lay sphere, however, especially where sales, which involved no sacrifice of overall wealth, were concerned.⁵⁹ The documents we have examined here are secular in all terms except their opening address and threats against infringement, and no suggestion of rewards in the next world is usually involved. Memory would therefore have had purely secular purposes

here, but how are we to imagine it being reinforced? Did our landowners have charter parties, in which their trusted associates were provided with food and drink in exchange for the solemn chore of memorising their host's property claims? Or was it possible to use a public gathering, such as a court or the aftermath of a church service, for these purposes?

Such suggestions have been made in other areas, but apparent proof that such reinforcements of memory may have been publicly conducted is provided by the five documents generated in the aftermath of the flood of the monastery of Saint-André d'Eixalada in 877.⁶⁰ The revived house of Saint-Michel de Cuxa immediately set about recovering its old properties by arranging numerous hearings in which witnesses to their landholdings were brought forward. In one of these the original donors were able to testify to their actions, but in the other four, lost documents were the subject of the testimony, and two of them involve a clause where the witnesses testified that they had heard the documents read and re-read, although not at the property locations, as Boso of Taradell had supposedly done, but at the abbey, and in one of these cases 'in lay assemblies', *in placitos laicales*, which despite that description had apparently still happened at the monastery.⁶¹ One of the documents being replaced dated from 38 years before and had itself recalled land tenure going back at least 75 years more, because the donors' great-grandfather had allegedly obtained the lands in the time of 'Umar ibn 'Umar, the last Muslim governor of Narbonne, which Charlemagne's father Pippin III captured in 759; these would have been hard details to make up a century later.⁶² In the other case of reading and re-reading, intriguingly, the documents that were being recalled were not the monastery's own, but those of Count Miró of Conflent (870–96), who had earlier deposited four charters with the monastery for safe keeping, at which time they had,

apparently, been read and re-read.⁶³ Miró had not been count long when the monastery was flooded, so the window here is smaller, but the detail of the witnesses' recall was still impressive.⁶⁴

The very limited historiography on these particular documents has, indeed, differed about how their detailed testimony had been enabled. Jeffrey Bowman has suggested that a single reading of the monastery's documents had been arranged by a forward-thinking abbot in 876, but Josep María Salrach has recently suggested, noting the plurality of the aforementioned 'lay assemblies', that such occasions might have been more frequent.⁶⁵ The monastic context perhaps makes some kind of annual commemoration more plausible. Nevertheless, the documents examined here still seem to show that landowners did organize repeated, and perhaps even regular, recitations of their charters before an audience including, but by no means limited to, the documents' formal witnesses. We might liken this to, and even imagine it including, a walking of the bounds such as is still performed yearly by some communities in England and which is sometimes said to have been done to settle disputes in the charters of early medieval Catalonia.⁶⁶

Even with texts as rich as these, it is obviously impossible to say if this is what was usually done in the counties of the future Catalonia in the years before 1000 to keep documents alive. The very differences between these testimonies suggest a vibrant improvisation of practice, even if some of their details also inspire suspicion about the difference between the written record and actual practice. Some fairly extensive culture of recall is still evidenced here, however: not only do the various testimonies of the replacement of documents more or less require it, the whole construction of the early medieval charter form that was used, with its witnesses and mnemonic repetitions, intended the possibility of future retrieval from memory of the

occasion it recorded.⁶⁷ It seems reasonable to suppose that such performances of documents' texts, reading and re-reading, would have been done at least when those documents were handed over to someone new. Perhaps this was even sometimes done on location, although our single testimony to it is problematic. We seem also to have good reason to suppose more than this, however, with the memory of potential testators being reinforced by repeated subsequent readings.

From written record to memory

There are several further conclusions that can be drawn from these episodes with respect to the social role of documents and their relationship to the institutional changes of the early Middle Ages. In the first place, these examples clearly illustrate the document-mindedness referred to at the outset of this article. The original transactions that these episodes recalled had generated documents, and we have been able to see those transactions through the medium of a ceremony that created more documents, even though its primary content was oral, immediate and performative. The law which the ceremony invoked was recalled, and often quoted, as text in those documents, and the whole result was archived with other land transactions, meaning both that we now have it and that it was ultimately intended to function like documents that recorded original transactions. The point of the meeting was a ritual to create a new document, and bestow upon it the validity of an old document which had been lost.

This was obviously not a sub-literate culture, therefore, but neither was total reliance on text its desired point of rest.⁶⁸ Indeed, the ceremonies that we have examined worked primarily by creating a collective social consensus about the local

structures of land ownership. Documents and their making played an important role in focusing that consensus and could be used to fortify it in cases of dispute, but the validating authority in these cases was not the documents *per se*, even by means of an external superstructure able to enforce them, but the collective memory in which the documents played a constructive role.⁶⁹ Through *reparatio scripturae* even documents might come to rely on this memory. This situation had not arisen because of the triumph of an oral mode over a literate one, however; as already stressed, a literate production was at the heart of these rituals, and they may have been informed by written models.⁷⁰ Instead, what we can see here is the local substitution of the institutional superstructures described in the introduction. In the later Roman Empire such ‘readings and re-readings’ would not have been necessary, because the municipal archives would have provided the back-up for the document in the case of loss or theft. Furthermore, as long as that municipal record existed, no other would have been sufficient, at least for purposes such as establishing tax liability. Thus, there was then no incentive to create the alternative structures of record that developed later.⁷¹

Once the imperial tax system faltered, however, and government came to rest on more local resources, the superstructure that required the municipal archives was no longer there to maintain them.⁷² This is the situation into which King Chindasuinth’s law about the forgery of documents intervened, one in which documents were still determinant but there was no longer any centralized check on their contents. For that job, memory now had to suffice. That memory, however, was not expected to be generalized; the supposed owner’s own testimony would do, presumably as long as the efforts at forgery or destruction had been proved to the court’s satisfaction and the disputing party was discredited. This is perhaps because

for Chindasuinth the aim of the law was not to check a document but to restore it, so that it, not memory, could continue to function as the default arbiter of ownership. As we have seen, the focus of Chindasuinth's law was on malfeasance, rather than on the simple loss for which medieval scribes invoked it. In other words, it was intended to remedy the specific case of someone seeking criminally to change the reality of ownership by tampering with a document. While such cases do not survive from Spain, although law against them does, there are several known from early medieval Italy that further demonstrate that possession of documents, even furtively acquired, could potentially change ownership, although (importantly) we know this because these attempts were unsuccessful, and a new document was made to record that. Still, the attempts were apparently worth making.⁷³

The stage the Catalan documents represent is the next one, when deficiencies in the law could no longer be remedied in the intended fashion, its issuers having long been removed from power, even though it remained in reverent use. By the tenth century, whether or not it had always been so, the law was less a prescription than a model for conduct that could be adapted to need. Not only did it not cover the eventuality that provoked these records, loss or damage of a document, but its procedures for testimony were obviously now felt insufficient, hence their improvement with a larger number of witnesses, a church location and the solemn oaths of the public testamentary declaration. Again, the sources for this were written and the results were, in part at least, textual, but the method was a mobilization of oral memory, the foundations of which we have suggested were laid by other, more regular, ceremonies of reading and re-reading. Here we see local improvisation of ceremonial structures that could make effective and useful, for the specific needs of

the place and time, the remains of older institutions which these communities still found useful.

We have also seen, however, that the choice of materials from which to construct, or reconstruct, these ceremonies, placed constraints upon those who wrote them. Ademir, who wrote the two charters required by Boso of Taradell, thought that notaries and a chancellor should have been involved; they cannot have been, but something told him this was correct, and so he thus recorded it. Other features of our texts may be similarly artificial but we have also seen that, if need be, texts could be bent to the record. At Sant Miquel de Manresa the scribe, Arnulf, was willing to alter the text of the very law itself so that it did the work that was required when he wrote. The primacy of the written model over the purpose of its users cannot, and should not, be assumed; they existed in tension and even in dialogue.

Conclusions

Various factors thus shaped the use of documents in this long-post-Roman context. The expectation of the people who lived in what is now Catalonia in the tenth century was that ownership of land would be recorded in a document, but the documentary form that they used had been developed to serve the fiscal needs of the late Roman Empire, needs which no longer existed. As with the similar mutation of municipal archives which has been studied in Italy, however, such documents also served the needs of their users, and for that reason were maintained.⁷⁴ Supporting this continuing use of documents after their originating institutions were gone required a new logic of authority. Ceremony, witnessing and the creation of memory, rather than the superstructure of a state bureaucracy, became the means by which documents were validated and maintained. This was done not least by social occasions that we can

hardly see, the ‘many occasions’ of ‘reading and re-reading’ so that, if a document were lost, one did not in fact have to rely on writing. Our transactors obviously did keep their own documents where they could be produced at need, if obviously not very successfully in the cases we have studied; but they used them not as direct proof of tenure, but as tools for creating collective agreement to a state of affairs.⁷⁵

That difference meant the adaptation and even improvement of their written techniques, to provide the protection against failure that the long-gone archives could not. It meant mobilizing public opinion, on the local scale of the communities involved; it meant utilizing the ritual resources of the Church; and it meant activating the collective memory of these communities, not just once but repeatedly, all to ensure that the one aspect of the old system which was still useful, its assurance of title to property by written proof, could effectively be replaced if the need arose. The very wish to continue using such documents thus meant improvising ways to manage without them, and thereby moving ultimately from a culture of documentary title to a new state, in which the document was only one of a number of voices that might be heard in a dispute: an important, convincing and above all long-lasting voice, but still only one among many.⁷⁶ This we might call instead a culture of documentary participation.

Thus our transactors ensured that orality could protect literacy, but the continued importance of literacy does not tell us about dedicated or even casual preservation of Roman documentary ideals, but about a more deliberate selection of social tools on the basis of functionality. As well as confronting us with the interaction of oral and literate modes of record in ways that challenge any separation between the two or superiority of one over the other, these examples from Catalonia show us that the social selection between continuity and change was both purposeful

and adaptive, and that what continuity we can observe, in the post-Roman transition and others, may be as much to do with the new needs of the time as the survival of old values that such continuity might seem to represent from our more distant perspective.

Acknowledgements

This paper derives in part from my doctoral research and in part from many conversations since then, with more people than can be named here; I thank them all. It was first written in this form for presentation at the Second Conference of the Society for the Medieval Mediterranean at the University of Lincoln in July 2015, and I must thank the organisers, the late Professor S. Barton and Drs R. Portass and A. Liuzza Scorpo, for accepting it, and Drs J. Escalona, I. Santos Salazar and Á. Carvajal Castro, for useful comments and discussion there. In the process of turning that paper into this article I have had the invaluable help of Dr R. Darley, without whose input it would be a far less effective piece of scholarship. The two anonymous reviewers for *Social History* both also made valuable suggestions for the improvement of the article. I remain responsible for all its weaknesses.

¹ On such issues see J. Goody, *The Logic of Writing and the Organisation of Society* (Cambridge, 1986), with re-evaluation of this and Goody's other work on this theme in D.R. Olson and M. Cole (eds), *Technology, Literacy, and the Evolution of Society. Implications of the work of Jack Goody* (Mahwah, 2006). For a medievalist's appraisal of Goody's thesis see: R. McKitterick, 'Introduction', in McKitterick (ed.), *The Uses of Literacy in Early Mediaeval Europe* (Cambridge, 1990), 1-10. For the area primarily concerned in this article there is also the immense but problematic M. Zimmermann, *Écrire et lire en Catalogne (IX^e–XIII^e siècle)* (Madrid, 2003), on which see the blog posts by J. Jarrett at *A corner of tenth-century Europe* available via the

search URL <<https://tenthmedieval.wordpress.com/?s=michel+zimmermann>> [accessed 3 April 2019].

² C. Wickham, *The Inheritance of Rome. A history of Europe from 400 to 1000* (London, 2009) is perhaps the best among many available guides to this era.

³ As in, for example, D. Talbot Rice (ed.), *The Dark Ages. The making of European civilization* (London, 1965). On problems with the term, J.L. Nelson, ‘The Dark Ages’, *History Workshop Journal*, 63 (2007), 191-201.

⁴ See McKitterick, *Uses of Literacy, op cit.*; N. Everett, *Literacy in Lombard Italy, c. 568-774* (Cambridge, 2003); and M. Mostert (ed.), *New Approaches to Medieval communication* (Turnhout, 1999). K. Heidecker (ed.), *Charters and the Use of the Written Word in Medieval Society* (Turnhout, 2000), applies this optic specifically to documentary evidence. Compare S. Franklin, *Writing, Society and Culture in Early Rus, c. 950–1300* (Cambridge, 2002), for a rather different case study.

⁵ To the works in the previous note add W.C. Brown, M. Costambeys, M. Innes and A.J. Kosto (eds), *Documentary Culture and the Laity in the Early Middle Ages* (Cambridge, 2013), on specifically non-ecclesiastical document use, including N. Everett, ‘Lay documents and archives in early medieval Spain and Italy, c. 400–700’, 63-94, and A.J. Kosto, ‘*Sicut mos esse solet*: documentary practices in Christian Iberia’, c. 700–1000’, 259-82; A.J. Kosto, ‘Laymen, clerics, and documentary practices in the early Middle Ages: the example of Catalonia’, *Speculum*, 80 (2005), 44-74. On the survival of informal records on bark, wood and so on, see M. Garrison, ‘“Send more socks”: on the mentality and the preservation context of medieval letters’, in Mostert, *op. cit.*, 69-99.

⁶ J.M.H. Smith, *Europe after Rome, 500–1000. A new cultural history* (Oxford, 2005), 45.

⁷ W.C. Brown, ‘On the *gesta municipalia* and the public validation of documents in Frankish Europe’, *Speculum*, 87 (2012), 345–75, reprised under the same title with slightly less comparative detail in Brown, Costambeys, Innes and Kosto, *Documentary Culture, op. cit.*, 95-124; A. Hodge, ‘When is a charter not a charter? Documents in non-conventional contexts in early medieval Europe’, in J. Jarrett and

A.S. McKinley, *Problems and Possibilities of Early Medieval Charters* (Turnhout, 2013), 127-49 (pp. 133-38).

⁸ Everett, 'Lay documents', *op. cit.*, and Brown, 'On the *gesta*', *op. cit.* (in Brown, Costambeys, Innes and Kosto, *Documentary Culture, op. cit.*), building on, among others, Ian N. Wood, 'Disputes in late fifth- and sixth-century Gaul. Some problems', in W. Davies and P. Fouracre (eds), *The Settlement of Disputes in Early Medieval Europe* (Cambridge, 1986), 7-22 and N. Everett, 'Scribes and charters in Lombard Italy', *Studi Medievali*, 3a serie, 41 (2000), 39-83.

⁹ Hodge, *op. cit.*, 135-36, identifies such documents surviving from early medieval Cherson, on the north shore of the Black Sea, preserved in later historiography.

¹⁰ On the scale of early medieval documentary survival see W.C. Brown, M. Costambeys, M. Innes and A.J. Kosto, 'Introduction', in Brown, Costambeys, Innes and Kosto, *Documentary Culture, op. cit.*, 1-16. The figures from Catalonia have been disputed: I here follow J. Alturo i Perucho, 'A propòsit de la publicació dels diplomes de la Catalunya carolíngia', *Estudis Romànics*, 27 (2005), 289-97, but this is likely to be out of date and there are hitherto unsuspected quantities of documents in private hands in the area; see D. Piñol Alabart, 'Proyecto ARQUIBANC – Digitalización de archivos privados catalanes. Una herramienta para la investigación', in A. Ambrosio, S. Barret and G. Vogeler (eds), *Digital Diplomats. The computer as a tool for the diplomatist?* (Köln, 2014), 99-108. For the avoidance of ambiguity, my primary examples are all drawn from the historic area of Catalonia as constituted at the point of the union with Aragón in 1137, rather than its current extent. Although this area is outstanding in this regard, the whole of Northern Iberia enjoys unusual survival of early medieval documentation: see L. Sierra Macarrón, 'Producción y conservación de la documentación altomedieval: del Cantábrico al Duero (siglos IX-XI)', *Signo*, 13 (2004), 99-120, or in English, Kosto, '*Sicut mos esse solet*', *op. cit.*, or W. Davies, *Acts of Giving. Individual, community, and Church in tenth-century Christian Spain* (Oxford, 2007), 22-26, updated by W. Davies, *Windows on Justice in Northern Iberia 800-1000* (Abingdon, 2016), 12-17. Comparisons to the rest of Northern Iberia are referenced in the notes that follow although not in the main, text as Catalonia was in some ways a diplomatic province apart: see J. Jarrett, 'Comparing the earliest documentary culture in Carolingian Catalonia', in Jarrett and McKinley, *op. cit.*, 89-

126. On 'charter provinces' in this era see J. Jarrett, 'Introduction. Problems and possibilities of early medieval charters', *ibid.*, 1-18, here 2-4.

¹¹ Many of these themes are developed at greater length by Zimmermann, *op. cit.*, which does not, however, anticipate the conclusions here. Comparative perspectives are offered in Everett, 'Lay documents', *op. cit.*, and Brown, 'On the *gesta*', *op. cit.* (*Speculum*), 373-75.

¹² Here I follow P.R. Hyams, 'The charter as a source for the early Common Law', *Journal of Legal History*, 12 (1991), 173-89.

¹³ The documents here referred to are printed in: P. De Marca, *Marca Hispanica sive Limes Hispanicus, hoc est geographica & historica descriptio cataloniae, ruscinonis, & circumiacentium populorum*, ed. by É. Baluze (Paris, 1688, repr. Barcelona, 1972), col. 1022 (ap. CLXXXV), my translation; and C. Devic and J. Vaissete, *Histoire générale de Languedoc avec les notes et les pièces justificatives. Édition accompagnée de dissertations et actes nouvelles, contenant le recueil des inscriptions de la province antiques et du moyen âge, des planches, des cartes géographiques et des vues des monuments*, with additions by É. Mabille, E. Barry, E. Roschach and A. Molinier, ed. by M.E. Dulaurier (Toulouse, 1872-1905, repr. Osnabrück, 1973), v, cols 395-96 (Preuves : chartes et diplômes, no. 194). Although such oral testaments were quite legal (Karl Zeumer (ed.), *Leges Visigothorum* (Hannover, 1902, repr. 2005), 33-456 (p. 111, II.5.11)) it was evidently not usual, as the myriad of other testaments which use documents show: see N.L. Taylor, 'Testamentary publication and proof and the afterlife of ancient probate procedure in Carolingian Septimania', in K. Pennington, K.H. Kendall and S. Chodorow (eds), *Proceedings of the Tenth International Conference on Medieval Canon Law* (Vatican City, 2001), 767-80. Davies, *Windows on justice*, *op. cit.*, pp. 194-99, suggests that in her areas of Iberia many cases may have been settled outside court, and thus left no records. This is of course possible in this area too, and indeed everywhere: see P.J. Geary, 'Vivre en conflit dans une France sans État: typologie des mécanismes de règlement des conflits (1050-1200)', *Annales. Economies, sociétés, civilisations*, 41 (1986), 1107-33, translated as 'Living with conflicts in stateless France. A typology of conflict management mechanisms, 1050-1200', in P. J. Geary. *Living with the dead in the Middle Ages* (Ithaca, NY: Cornell University Press, 1994), 125-60. In my sample,

however, I have not found documents like those that Davies has which testify to this having happened.

¹⁴ On the shift to notaries see Reinhard Härtel, *Notarielle und kirchliche Urkunden im frühen und hohen Mittelalter* (Wien, 2011), 51-102.

¹⁵ B.-M. Tock, *Scribes, souscripteurs et témoins dans les actes privés en France (VIIe-début du XIIe siècle)* (Turnhout, 2005), 225-70.

¹⁶ See n. 13 above.

¹⁷ Tock, *op cit.*, 386-91; Härtel, *op cit.*, 255-61.

¹⁸ These are usually evident because of later documents demanding that the former ones be enacted: for an example pair, see R. Ordeig i Mata (ed.), *Catalunya Carolíngia IV: els comtats d'Osona i Manresa* (Barcelona, 1999), III, 1294-95 and 1322-23 (doc. nos 1825 and 1864).

¹⁹ For documents from the Cairo Genizah, see G.A. Khan, *Arabic Legal and Administrative Documents in the Cambridge Genizah Collections* (Cambridge, 1993); for destruction of documents in a Western context, A. Sennis, 'Destroying documents in the early Middle Ages', in Jarrett and McKinley, *op. cit.*, 151-69.

²⁰ José Rius Serra, 'Reparatio scriptura', *Anuario de historia del Derecho español*, 5 (1928), 246-53; J.A. Bowman, *Shifting Landmarks. Property, proof, and dispute in Catalonia around the year 1000* (Ithaca, NY, 2004), 151-63; J.M. Salrach, *Justícia i poder a Catalunya abans de l'any mil* (Vic, 2013), 185-211.

²¹ The best narrative of the area under Frankish rule remains J.M. Salrach i Marés, *El procés de formació nacional de Catalunya (segles VIII-IX)* (Barcelona, 1978); in English, see J. Jarrett, *Rulers and Ruled in Frontier Catalonia, 880-1010. Pathways of power* (Woodbridge, 2010), 1-10 for a summary account, and C.J. Chandler, *Carolingian Catalonia. Politics, culture, and identity in an imperial province, 778–987* (Cambridge, 2019) for in-depth analysis. The debate on the medieval historicity of the Catalan identity is painstakingly set out in F. Sabaté, 'The medieval roots of Catalan identity', in F. Sabaté (ed.), *Historical Analysis of Catalan Identity* (Bern, 2015), 29–104.

²² J. Jarrett, 'Caliph, king, or grandfather. Strategies of legitimization on the Spanish March in the reign of Lothar III', *The Mediaeval Journal*, 1, 2 (2012 for 2011), 1-22.

²³ Jarrett, 'Comparing the earliest documentary culture', *op. cit.*, 89-91.

²⁴ Zeumer, *op. cit.*, 304-05 (VII.5.2); the translation here is from S.P. Scott (trans.), *The Visigothic Code (Forum iudicum)* (Boston, MA, 1910), 254-55 (VII.5.2), <http://libro.uca.edu/vcode/visigoths.htm> [accessed 5 March 2018]. The local text of the Visigothic Law, represented by J. Alturo i Perucho, J. Bellès, J.M. Font i Rius, Y. García and A. Mundó (eds), *Liber iudicum popularis, ordenat pel jutge Bonsom de Barcelona* (Barcelona, 2003), does not differ significantly at this point.

²⁵ These are: R. d'Abadal i de Vinyals (ed.), *Catalunya carolíngia II. Els diplomes carolingis a Catalunya* (Barcelona, 1926–52, repr. 2009), I, 72-3 (Barcelona: Sant Pere de les Puelles, I); À. Fàbrega i Grau (ed.), *Diplomatari de la Catedral de Barcelona. Documents dels anys 844-1260. Volum I. Documents dels anys 844-1000* (Barcelona, 1995), 377-79 and 487-89 (doc. nos 172 and 261); Ordeig, *op. cit.*, I, 91-3 (doc. nos 33 and 34) and III, 1303-05 (doc. no. 1840); M. Pardo i Sabartés (ed.), *Mensa episcopal de Barcelona* (Barcelona, 1994), doc. no. 3; P. Ponsich (ed.), *Catalunya carolíngia volum VI. Els comtats de Rosselló, Conflent, Vallespir i Fenollet*, completed by R. Ordeig i Mata (Barcelona, 2006), I, 103–04, 105–07, 107–09, 110–11, 119–20, 121, 125, 127–29, 131–32, 132–33, 136–42, 148, 150–54, 155, 157–58, 158–59, 159–68, 169–71 and 173–74 (doc. nos 37, 38, 41–3, 46–8, 50, 57, 59, 65, 67–71, 75, 76, 78, 82–91, 96, 98–104, 106, 109, 111, 113–23, 125 and 127), representing five actual documents; J. Rius [Serra] (ed.), *Cartulario de «Sant Cugat» del Vallés* (Barcelona, 1945–9), II, 174-75 (doc. no. 523); S. Sobrequés i Vidal, S. Riera i Viader, and M. Rovira i Solà (eds), *Catalunya carolíngia volum V. Els comtats de Girona, Besalú, Empúries i Peralada* (Barcelona, 2003), I, 179-80 and 210-12 (doc. nos 173 and 218), representing a single actual document. Rius, 'Reparatio scripturae', *op. cit.*, 250-53 (app. 1 and 2) adds two later examples. The cut-off date of 1030 is an effect of the sample used for J. Jarrett, 'Pathways of power in late-Carolingian Catalonia' (Ph.D., London, 2005).

²⁶ Those listed from Ponsich, *op.cit.*. On the monastery's history see R. d'Abadal i de Vinyals, 'Com neix i creix un gran monestir pirinenc abans de l'any mil: Eixalada-Cuixà', *Analecta montserratensia*, 8 (1955), 125-337, repr. without documentary

appendix in Abadal, *Dels Visigots als Catalans*, ed. J. Sobrequés i Callicó (Barcelona, 1969), 377-484.

²⁷ Ordeig, *op. cit.*, III, 1303-05 (doc. no. 1840), compare the texts cited in n. 24 above.

²⁸ Fàbrega, *op. cit.*, doc. nos 172 and 261 (the detail account in no. 172) and Rius, *Cartulario*, *op. cit.*, II, 174-75 (doc. no. 523).

²⁹ Bowman, *op. cit.*, 33-55.

³⁰ Abadal, *Catalunya carolíngia II*, *op. cit.*, II, 436-37 (ap. IX).

³¹ I derive my concepts of 'public' space here from A.J. Kosto, 'Reasons for assembly in Catalonia and Aragón, 900–1200', in P.S. Barnwell and M. Mostert (eds), *Political Assemblies in the Earlier Middle Ages* (Turnhout, 2003), 133-49; compare T. Reuter, 'Assembly politics in Western Europe from the eighth to the twelfth centuries', in P. Linehan and J.L. Nelson (eds), *The Medieval World* (London, 2001), 432-50, reprinted in Reuter, *Medieval politics and modern mentalities*, ed. by J.L. Nelson (Cambridge, 2006), 193-216; compare also Davies, *Windows on Justice*, *op. cit.*, 204–31.

³² Ordeig, *op. cit.*, I, 91-3 (doc. nos 33 and 34), 92–3 (doc. no. 34). On these charters see also Salrach, *Justícia i poder*, *op. cit.*, 200–02. Taradell is about 5 miles south-south-east of the modern city of Vic, but Gaudilà's hamlet is today unknown.

³³ Ordeig, *op. cit.*, i, 92–3 (doc. no. 34). The translation here is mine: in it and what follows, I normalise all personal names from the texts to modern Catalan.

³⁴ Here the witnesses's recall of the document text seems briefly to have been left in its original first-person voice.

³⁵ Here I follow Jarrett, 'Pathways of power', *op. cit.*, 49-53.

³⁶ Concepción Mendo Carmona, 'La suscripción altomedieval', *Signo*, 4 (1997), 207–29, with repeated references to 'notarios' but no specific examples; I have not seen any in the samples I have made of the Asturian and Leonese documentation.

³⁷ Davies, *Windows on Justice*, *op. cit.*, 225–26, evinces similar reservations about her evidence.

³⁸ Respectively Sobrequés, Riera and Rovira, *op. cit.*, I, 210-12 (doc. no. 218), and Ordeig, *op. cit.*, III, 1303-05 (doc. no. 1840).

³⁹ Sobrequés, Riera and Rovira, *op. cit.*, I, 211 (doc. no. 218); Ordeig, *op. cit.*, II, 1304; compare *ibid.*, I, 92-3 (doc. no. 34).

⁴⁰ See Davies, *Windows on Justice*, *op. cit.*, 124-27, on the wider oath formula.

⁴¹ On formularies in this period see Alice Rio, *Legal Practice and the Written Word in the Early Middle Ages. Frankish formulae, c. 500-1000* (Cambridge, 2009); Warren C. Brown, ‘Laypeople and documents in the Frankish formula collections’, in Brown, Costambeys, Innes and Kosto, *Documentary Culture*, *op. cit.*, 125–51.

⁴² ‘Un formulaire du Xème siècle conservé à Ripoll’, ed. by M. Zimmermann, *Faventia*, 4 (1982), 25-86; Jarrett, ‘Comparing the earliest documentary culture’, *op. cit.*, esp. 99, with references to the alternative, unsustainable, views of Zimmermann, *Ecrire et lire*, *op. cit.*, I, 257, 273-78 and 280.

⁴³ ‘Formulae wisigothicae’, ed. J. Gil, in J. Gil, *Miscellanea wisigothica* (Sevilla, 1972), 70–112; see Taylor, *op. cit.*

⁴⁴ Search conducted in *Formulae Merovingici et Karolini aevi*, ed. K. Zeumer (Hannover, 1882).

⁴⁵ G. Barrett, ‘Legislation and its afterlife in Early Medieval Europe’, unpublished paper presented at the International Medieval Congress, University of Leeds, 8 July 2014.

⁴⁶ Davies, *Windows on Justice*, 257-58 and, based on less definite discussion, 95-120.

⁴⁷ Jarrett, ‘Comparing the earliest documentary culture’, esp. 115-17.

⁴⁸ *Ibid.*, 91-99.

⁴⁹ Davies, *Windows on Justice*, 95-120; Davies, *Acts of Giving*, 36-50; W. Davies, ‘Where are the parishes? Where are the minsters? The organization of the Spanish Church in the tenth century’, in D. Rollason, C. Leyser and H. Williams (eds),

England and the Continent in the Tenth Century. Studies in Honour of Wilhelm Levison (1876-1947) (Turnhout, 2010), 379-97.

⁵⁰ Compare Jarrett, ‘Comparing the earliest documentary culture’, *op. cit.*, 115-17, to W. Davies, ‘Local priests and the writing of charters in Northern Iberia in the tenth century’, in J. Escalona and H. Sirantoine (eds), *Chartes et cartulaires comme instruments de pouvoir. Espagne et Occident chrétien (VIII-XII siècles)* (Toulouse, 2013), 29-43.

⁵¹ See Taylor, *op. cit.*. The relevant law was Zeumer, *Leges visigothorum*, *op. cit.*, 112-14 (II.V.12).

⁵² Compare Everett, ‘Lay documents’, *op. cit.*, for the same processes in an earlier Iberian era.

⁵³ Sobrequés, Riera and Rovira, *op. cit.*, 211 (doc. no. 218), my translation. The scribe’s peculiar instrumental use of gerundives and back-construction of a noun for testimony (*testum*) from that for witnesses brings to mind Davies’s remarks about individualised Latin usage among such scribes in her area (Davies, ‘Local priests’, *op. cit.*, 35-8).

⁵⁴ The recalled document is printed under its supposed date, Sobrequés, Riera and Rovira, *op. cit.*, I, 179-80 (doc. no. 173).

⁵⁵ Of the men who recalled the document contents, the priest Sesuld, Teudalec, Ataulf, Iquilà and Guidiscle, the last three were the fourth, sixth and seventh witnesses of the original document.

⁵⁶ Ordeig, *op. cit.*, III, 1303-05 (doc. no. 1840): here, of the sworn witnesses, a priest Ansulf, Adroer and Trasoer, Adroer was the author of the sixth document recalled, while among the neighbours of the eighth is Viscountess Quixol, otherwise only known from *ibid.*, I, p. 374 (doc. no. 456), of 938.

⁵⁷ ‘Rightly and truly’ (*recte et veraciter*): *ibid.*, I, 91 and 92 and III, 1303 (doc. nos 33, 34 and 1840), Sobrequés, Riera & Rovira, *op. cit.*, I, 211 (doc. no. 218), and Ponsich, *op. cit.*, I, 163, 165 and 167 (doc. nos 120, 121 and 123). ‘Many times’ (*plures vices*): Sobrequés, Riera & Rovira, *op. cit.*, I, 211 (doc. no. 218). ‘Reading and re-reading’ (*legentes et relegentes*): Ordeig, *op. cit.*, I, 92 (doc. no. 34), Sobrequés, Riera &

Rovira, *op. cit.*, I, 211 (doc. no. 218) and Ponsich, *op. cit.*, I, 163 and 165 (doc. nos 120 and 121).

⁵⁸ P. Geary, 'Entre gestion et gesta', in O. Guyotjeannin, L. Morelle, and M. Parisse (eds), *Les cartulaires* (Paris, 1993), 13-26; more widely, P.J. Geary, *Phantoms of Remembrance. Memory and oblivion at the end of the first millennium*, 2nd edn (Princeton, NJ, 1996).

⁵⁹ This is not to deny the probably huge symbolic importance of gift exchange in medieval cultures; see on this W. Davies, 'Countergift in tenth-century northern Iberia', in A. Deyermond and M. Ryan (eds), *Early Medieval Spain. A symposium* (London, 2010), 79-96, more broadly W. Davies and P. Fouracre (eds), *The Languages of Gift in the Early Middle Ages* (Cambridge, 2010), and more broadly still A. Appadurai, 'Introduction: commodities and the politics of value', in A. Appadurai (ed.), *The Social Life of Things. Commodities in cultural perspective* (Cambridge, 1988), 3-63. However, in such contexts the counter-gift itself would likely function as the focus of any commemoration.

⁶⁰ Ponsich, *op. cit.*, and on the documents and their contents Bowman, *op. cit.*, 152-56, and Salrach, *Justícia i poder, op. cit.*, 194-200.

⁶¹ Ponsich, *op. cit.*, I, 173-74 (doc. no. 127) by the surviving actors, 165 (doc. no. 121) specifying re-reading and 163-64 (doc. no. 120) adding the lay assemblies. *Ibid.*, I, 166-67 (doc. no. 122) specifies hearing and seeing, but not on repeated occasions.

⁶² *Ibid.*, I, 94-5 (doc. no. 23, part of *ibid.*, no. 120).

⁶³ *Ibid.*, I, 165 (doc. no. 121).

⁶⁴ Bowman, *op. cit.*, 154-55, waxes sceptical: 'one still cannot help wondering what it was exactly that all these witnesses remembered.' Compare Salrach, *Justícia i poder, op. cit.*, 195: 'Sens dubte, les escriptures més antigues havien estat llegides i rellegides públicament moltes vegades, altrament no es comprendria que els testimonies declaraessin, per exemple, sobre una escriptura d'uns quaranta anys enrere (juny 840 o 841)...', referring to the document that I cite above in note 62.

⁶⁵ Bowman, *op. cit.*, 155; Salrach, *Justícia i poder, op. cit.*, 195.

⁶⁶ *Ibid.*, 94-102, citing as examples Fàbrega, *op. cit.*, doc. no. 234, and Sobrequés, Riera and Rovira, *op. cit.*, I, 67 and 69-70 (doc. nos 1 and 7). For a modern English example see C. Brown, 'Beating the Cholesbury Bounds', *Cholesbury-Cum-St Leonards Local History Group*, <http://www.cholesbury.com/beatbounds.htm> [accessed 6 March 2018].

⁶⁷ Similar reflections, from different evidential bases, in S. Foot, 'Reading Anglo-Saxon charters. Memory, record, or story?', in E.M Tyler and R. Balzaretti (eds), *Narrative and History in the Early Medieval West* (Turnhout, 2006), 39-65, or I. Santos Salazar, 'Los privilegios de Berbeia y Barrio: elites, memoria y poder en Lantarón durante el siglo X', *Studia Historica: Historia Medieval*, 31 (2013), 51–81.

⁶⁸ Compare Davies, *Windows on Justice*, 242-43.

⁶⁹ Compare J.A. Bowman, 'From written record to historical memory. Narrating the past in Iberian charters', in R.A. Maxwell (ed.), *Representing History, 900–1300. Art, music, history* (University Park, PA, 2010), 173-80. Davies, *Windows on Justice*, *op. cit.*, 219-25, is sceptical about the realities of community action as reported in her documents, in marked contrast to her earlier views in Davies, *Acts of Giving*, *op. cit.*, 201-07.

⁷⁰ Older formulations of the relationship between orality and literacy in this period can be found in M. Richter, *The Oral Tradition in the early Middle Ages* (Turnhout, 1988), or M. T. Clanchy, *From Memory to Written Record. England, 1066-1307*, 2nd edn (Oxford, 1993) and, more broadly, J. Goody (ed.), *Literacy in Traditional Societies* (Cambridge, 1968) and Goody, *Logic of Writing*.

⁷¹ Brown, 'On the *gesta*', *op. cit.* (in Brown, Costambeys, Innes and Kosto, *op. cit.*); for the model of documentary continuity on which his argument rests, see P. Classen, 'Fortleben und Wandel spätrömischen Urkundenwesens im frühen Mittelalter', in Classen (ed.), *Recht und Schrift in Mittelalter (= Vorträge und Forschungen, 23* (1977)), 13-54.

⁷² *Ibid.*; compare also M.F. Hendy, 'From public to private. The western barbarian coinages as a mirror of the disintegration of late Roman state structures', *Viator*, 19 (1988), 29-78, for similar arguments for another form of fiscal machinery.

⁷³ Everett, ‘Lay documents’, *op. cit.*, 88-91; compare Sennis, *op. cit.* Contrarily, in two Catalan charters, C. Baraut (ed.), ‘Els documents, dels anys 981-1010, de l’Arxiu Capitular de la Seu d’Urgell’, *Urgellia*, 3 (1980), 7–166 (107-09, doc. no. 278), and I. Llop Jordana (ed), *Col·lecció diplomàtica de Sant Pere de Casserres* (Barcelona, 2009), I, 148-50 (doc. no. 130), we can find witness testimony defeating existent documents, although in both cases the winners had powerful aristocrats on side.

⁷⁴ Brown, ‘On the *gesta*’, *op. cit.*; Hodge, *op. cit.*

⁷⁵ An argument more fully developed in Jarrett, ‘A likely story’, *op. cit.*. As for charters kept at home, the actor in Rius, *Cartulario*, *op. cit.*, I, 183-85 (doc. no. 218), bequeathed ‘my charter-box’, *ipsam meam cartariam*, which seems a clear testimony.

⁷⁶ Jarrett, ‘Pathways of power’, *op. cit.*, 59–61.