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Taking it to the March: Carolingian justice in ninth-century Girona

It is well-known to any who study medieval Spain that the historical reason that Catalonia is different from the rest of the Iberian peninsula in terms of language, institutions and organisation is that it that formed part of the Carolingian Empire.¹ In fact this was also true of Aragón and Navarre, but these were held far more briefly, breaking away in 817; the counties of Catalunya Vella, the pre-Reconquest core, are what the Carolingians were left with.² I've spoken here before about how long the area's sense of belonging to a Carolingian polity went on – as long, indeed, as there were Carolingians to belong to – but even I would be forced to admit that the 'pre-Catalonia' of 987 was not, and had not by then been for a long time, somewhere that the Carolingian kings actually ruled.³ That had by then stopped. Assigning a date to that change would be very difficult and incredibly subjective, so I'm not going to attempt it, but another question that one can ask is, how much effect did Carolingian rule here really have, at least after the almost-continuous presence of royal armies of conquest between 794 and 809 had ceased? We have, after all, a strongly-templated idea of what Carolingian administration looked like: counts, bishops, monasteries, yes, but also and more uniquely other royal functionaries, most obviously the *missi dominici* who provided checks on these other structures.⁴ How much of this is visible in Catalonia's

¹ See J. Jarrett, Rulers and Ruled in Frontier Catalonia, 880-1010: pathways of power, Studies in History (London 2010), pp. 1-11, with 'the map' on p. 3.

² Other than Jarrett, Rulers and Ruled, see for the wider context M. Zimmermann, "Western Francia: the southern principalities" in T. Reuter (ed.), The New Cambridge Medieval History volume III: c. 900-c. 1024 (Cambridge 1999), pp. 420-456 at pp. 441-449, or R. Collins, Early Medieval Spain: unity and diversity, 400-1000, New Studies in Medieval History, 2nd edn. (Basingstoke 1995), pp. 250-263. The literature is obviously thicker in more local languages: see esp. R. d'Abadal i de Vinyals, Els Primers Comtes Catalans, Biografies Catalanes: sèrie històrica 1 (Barcelona 1958; repr. 1980), P. Bonnassie, La Catalogne du Milieu du X^e à la Fin du XI^e Siècle: croissance et mutations d'une société (Toulouse 1975-1976), 2 vols or J. M. Salrach, El Procés de formació nacional de Catalunya (segles VIII-IX), Llibres de l'Abast 136 & 137 (Barcelona 1978), 2 vols, and Salrach, "Introducció: canvi social, poder i identitat" in B. Riquer i de Permanyer (ed.), Historia Política, Societat i Cultura dels Països Catalans volum 2: la formació de la societat feudal, segles VI-XII, ed. J. M. Salrach i Marès (Barcelona 1998, repr. 2001), pp. 15-67.

³ See for now J. Jarrett, "Caliph, King or Grandfather: strategies of legitimisation on the Spanish March in the reign of Lothar III" in The Mediaeval Journal Vol. 1 (Turnhout: Brepols forthcoming), pending the publication of *idem*, "Legends in Their Own Lifetime? The Late Carolingians and Catalonia", paper presented in session 'Legends of the Carolingians', Haskins Society Conference, Georgetown University, 7 November 2008.

⁴ Set out most fully in K. F. Werner, "*Missus - Marchio - Comes*: entre l'administration centrale et l'administration locale de l'empire carolingienne" in W. Paravicini, K. F. Werner (edd.), Histoire Comparée de l'Administration (IV^e-XVIII^e Siècle): actes du XIV^e colloque historique franco-allemand, Tours, 27 mars-1^{er} avril, organisée... par l'Institut historique allemand de Paris, Beihefte der Francia 9 (München 1980) pp. 191-239; repr. in K. F. Werner, Vom Frankenreich zur Entfaltung Deutschlands und Frankreichs: Ursprünge, Strukturen, Beziehungen. Ausgewählte Beiträge: Festgabe zu seinem sechzigsten Geburtstag (Sigmaringen 1984), pp. 121-161; a shorter account in R. McKitterick, The Frankish Kingdoms under the Carolingians, 751-987 (London 1983), pp. 77-106 and esp. pp. 93-97 on

unusually dense charter record?⁵

Questions of Preservation

Answering such a question means answering early, which is not my primary area. I made that choice for two reasons: firstly, there's more evidence later, and secondly there's not as much evidence earlier. I realise that technically speaking that's only one reason, but because the former is potential and the second is difficulty I thought it was worth mentioning twice. For example: really, we can see from royal documents that really catching the royal will on the ground should be easiest in Barcelona, which as soon as it was captured in 801 became the area's largest capital and base of the *marchiones* who led the defence against the Muslims here, in theory.⁶ In fact, however, whether because of the sack of that city by the armies of al-Mansur in 985 or for other reasons, the first documents preserved from Barcelona archives date from 844, by which time, as I'm going to argue, the things we want to see were already over.⁷ This then takes us back of necessity to where the early documents are, which not surprisingly is in the areas that the Carolingians held first, and principally in this case the previous capital, Girona.

Girona is something of a political blind spot before the Carolingians. Unlike Barcelona, it's not one hundred per cent clear that it had a Muslim garrison. Both Frankish and Muslim sources agree in making it part of the group of cities held by the al-'Arabī family who also ruled Barcelona and Huesca, and the *Annales Petaviani* alone add it to the list of cities that Charlemagne besieged in 778, making it appear that it was militarily defended (and, like the others, enough so to keep the Frankish conqueror out, though the same Annals do claim that Charlemagne captured one of the Muslim leaders somehow). If it was garrisoned, however, it was not sufficiently so to stop the city, however its decision-making power may have been constituted, from handing itself over to the Franks in 785, for reasons and by means that now remain completely obscure. Nonetheless, for the following twenty years until the capture of Barcelona, Girona was the Frankish capital in the area, and a cynical man might say on seeing the city

missi dominici.

⁵ Described by e. g. A. J. Kosto, "Laymen, Clerics and Documentary Practices in the Early Middle Ages: the example of Catalonia" in *Speculum* Vol. 80 (Cambridge MA 2005), pp. 44-74, p. 44.

⁶ For the capture of Barcelona see in most detail Salrach, *Procés de Formació*, I pp. 14-24. The royal documents for the March are almost all edited in R. d'Abadal i de Vinyals (ed.), *Catalunya Carolíngia II: els diplomes carolingis a Catalunya* Pt. 1, Memòries de la Secció Històrico-arqueològica 2 (Barcelona 1926-1950) [hereafter Cat. Car. II].

⁷ On the 985 sack see now G. Feliu i Montfort, *La Presa de Barcelona per Almansor: història i mitificació* (Barcelona 2007), online at http://www.iecat.net/butlleti/pdf/116_butlleti_feliu.pdf, last modified 15 September 2008 as of 3 November 2008. The 844 document is A. Fabregà i Grau (ed.), *Diplomatari de la Catedral de Barcelona: documents dels anys 844-1260. Volum I: documents dels anys 844-1000*, Fonts Documentals 1 (Barcelona 1995), doc. no. 1.

now that it has never been so important again and that this is where its almost Arthurian focus on the figure of 'Carlemany' comes from.⁸

Girona, unlike Barcelona, does preserve some documents from the Carolingian heyday, although even here the first is only from 817, and almost everything we have left is not preserved in the original but in the thirteenth-century *Cartoral de Carlemany*—I told you—and was often not fully understood by the copyists. Girona's early documentary script seems to have been a bit more Visigothic than merely Gothic scribes could handle, but as well as garbling, which can frequently be checked by the slightly more competent fourteenth-century *Llibre Verd*, there are also frequent missing words which suggest that the documents were by now somewhat the worse for wear.⁹ It may not have been malice or accident that disposed of them. This does mean, however, that a kind of copyists' filter has been applied to the material in a way that we don't usually face in Catalonia, and this is very evident when the material is analysed by type, as in this graph.

There are several things worth drawing attention to here. Firstly is that the *Cartoral de Carlemany* doesn't actually contain any documents from Charlemagne.¹⁰ Secondly, this is even less impressive than it appears, because the three hearings from 842 are all documents from the same case, one of the few where we actually all have all three of the records Roger Collins tells us a typically Visigothic trial should generate.¹¹ That's important in itself and I'll come back to it. But the third thing and by far the most obvious is that this sample has had its vast bulk stripped out. In the archives of this area where originals largely survive, we would expect a ratio of something like 50% sales to 35% donations, with the remaining 15% being trials, wills and maybe precepts and Bulls.¹² Here only part of that last category has been preserved. What we have here is the diplomatic equivalent of mounting an animal's head

⁸ Salrach, *Procés*, I pp. 9-14 for the narrative; for a discussion of the Arabic rule in the zone see E. Manzano Moreno, *La Frontera de al-Andalus en Época de los Omeyas*, Biblioteca de Historia 9 (Madrid 1991), pp. 217-223. The *Annales Petaviani* are printed in G. H. Pertz (ed.), *Monumenta Germaniae Historica (Scriptores in folio)* Vol. I (Hannover 1826), pp. 7-18.

⁹ The *Cartoral* is printed in J. M. Marqués i Planguma (ed.), *Cartoral, dit de Carlemany, del bisbe de Girona: s. IX-XIV* Vol. I, Col·lecció Diplomataris 1 (Barcelona 1993), 2 vols [hereafter *Carlemany*], and the other documents from the cathedral added to this in R. Martí (ed.), *Col·lecció diplomàtica de la Seu de Girona (817-1100): estudi i edició*, Col·lecció Diplomataris 13 (Barcelona 1998). All this material from before the year 1000 is now added to the other sources for the county in S. Sobrequés i Vidal, S. Riera i Viader, M. Rovira i Solà, (edd.) *Catalunya Carolíngia V: els comtats de Girona, Besalú, Empúries i Peralada*, ed. R. Ordeig i Mata, Memòries de la secció històrico-arqueològica 61 (Barcelona 2003), 2 vols [Cat. Car. V hereafter], of which p. 32 summarises information on the *Cartoral* and p. 33 on the *Llibre Verd*. For missing words compare Cat. Car. V 7 & 30 as below.

¹⁰ *Carlemany 1*, which is also *Girona 1* & *Cat. Car. V 7*, is from 817; *Carlemany 2* (*Cat. Car. II Girona II*) is from Louis the Pious and dated 834. It mentions a precept of Charlemagne to the cathedral that must once have existed (indexed as *Cat. Car. II Girona I*) but which is not preserved by the *Cartoral*.

¹¹ R. Collins, "'Sicut lex gothorum continet': law and charters in ninth- and tenth-century León" in *English Historical Review* Vol. 100 (London 1985), pp. 489-512, repr. in *idem*, *Law, Culture and Regionalism in Early Medieval Spain* (Aldershot 1992), V.

¹² See the comparable archives studied by W. Davies, *Acts of Giving: individual, community and church in tenth-century Christian Spain* (Oxford 2008), pp. 22-26. The figures here are my estimates from the material gathered for Jarrett, *Rulers and Ruled*.

on the wall and throwing away the rest of the carcass. This is why I haven't usually worked on Girona; it's just impossible to do the kind of work I usually do here. On the other hand, these are more or less the documents we want for this enquiry, because between precepts and judicial hearings we do get a reasonable sight of the area's central administration in operation, even if we can't reach outside the city walls at all, especially the hearings, and it's on them I want to concentrate for the rest of the paper.¹³

Three hearings for Girona

The first hearing we have is also the first document we have, the one from 817, and this is also the first document in the *Cartoral de Carlemany*.¹⁴ As the *Cartoral* gives it, with occasional missing verbs and so on, it runs like this:

Oaths and ordinations of the most glorious *missi* of our lord Emperor Louis, Bishop Nifrid, Christian also Bishop, and also the judges who were ordered by the selfsame *missi* to determine the cases, that is, Adroer, Quixilà, Adulf, Calb, Provasi, Sculpiliaro and Romulus and also the *saio* Magnençi, and in the presence of many other men who were there with those same persons. The sworn witnesses whom the 'advocate', that is, vicar, of Bishop Gualaric brought, speaking in the presence of Godald, about the case whence dispute was arising between the witnesses [*sic*].

These are the names of the witnesses who should swear and do swear, that is, Argemir, Vital, Cavat, Valerí, Maurilí, Auripí, Segònç and Godsèn, who swore: We say by God the Father Omnipotent and by Jesus Christ his son and by the Holy Spirit, which is the one and true Trinity, and at the place of veneration of Saint Andrew which is founded in the *villa* of Borrassà, in the Besalú territory, on whose sacrosanct altar we together held this oath in our hands and touching it together swore, that we the above-written witnesses know well and have it well and truthfully remembered and were present when Ragonfred, Count of the Palace was in the *villa* called Bascarà, along with the dominical judges Donat and Hugubald, and they sought out the boundaries of that *villa*, boundary-markers and landmarks and *vindenates*.¹⁵ We saw

¹³ On parallel use of hearings elsewhere see classically W. Davies & P. Fouracre (edd.), *The Settlement of Disputes in Early Medieval Europe* (Cambridge 1986).

¹⁴ See n. [10] above. I use here the text given as Cat. Car. V 7. On the confusions of this text, see R. d'Abadal i de Vinyals, *Catalunya Carolíngia I: el domini carolíngi a Catalunya*, ed. J. Sobrequés i Callicó (Barcelona 1986), p. 242 & n. 4.

¹⁵ Du Cange and Niermeyer only know this document for this word, which they both suppose to be

testifying about everything Huccia, Truncat, Mantild, Otger, Comparat and Ababdella Marató and Avenat. And they testified and swore and went among the landmarks and boundary-markers, of which we the aforesaid witnesses made a circuit on foot and with our hands we made our signatures. And thus he reinvested Bishop Gualaric with the selfsame aforewritten *villa* with its boundaries and all its limits on behalf of Saint Felix the blessed martyr Christ of the see of Girona. And that which we know we do testify rightly and faithfully by the above-said oath in God.

Oath made on the 18th day of the Kalends of January, in the fourth year of our most glorious lord Louis's *imperium*.

So here we have *missi dominici* (actually termed so in the signatures) in operation, and at one remove also a Count of the Palace, the Carolingian template in full effect surely. I'll come back to those figures in a short while, but just for now, let's also notice that these courtiers appear to have been superimposed over a basically Visigothic court system. There are, for example, judges, where a Salian Frank might have expected *scabini*.¹⁶ Those judges appear, in fact, to be somewhat floating in status. Whereas the later judges for whom Barcelona is famous and lauded by Collins were certainly trained professionals, some of these men appear repeatedly in the Girona hearings, few of them though they are, and only sometimes are they called, or even functioning as, judges.¹⁷ This suggests to me that what we have here is a pool of knowledgeable men, some of whom might have had some acquaintance with the law but not necessarily all, who might be called upon on a given day to sit in judgement. All the same, the name of their task is not Frankish practice and even if we overlook that, the *saio* is an obvious indicator that we are here in Gothia not Francia.¹⁸ This also appears in the terms used for the oath, described as *condictiones sacramentorum*; this, and also the insistence on fixed markers for property divisions, can easily be found in the Visigothic Law. This is not so much an imposition of Carolingian justice but a

some other kind of boundary marker. Given the state of the transmission, I don't even want to guess.

¹⁶ McKitterick, *Frankish Kingdoms*, pp. 91-93; J. L. Nelson, "The Settlement of Disputes in Carolingian West Francia" in Davies & Fouracre, *Settlement of Disputes*, pp. 45-64.

¹⁷ Collins, "'Sicut lex gothorum continet'", p. 512; see also J. A. Bowman, *Shifting Landmarks: Property, Proof, and Dispute in Catalonia around the Year 1000*, *Conjunctions of Religion and Power in the Medieval Past* (Ithaca 2004), pp. 81-99. Cf. J. Jarrett, "Centurions, Alcalas and *Christiani perversi*: Organisation of Society in the pre-Catalan 'Terra de Ningú'" in †A. Deyermond & M. Ryan (ed.), *Early Medieval Spain: a symposium*, *Papers of the Medieval Hispanic Research Seminar 63* (London: Queen Mary University of London 2010), pp. 97-127 at pp. 104-108.

¹⁸ On the *saio* see for now P. D. King, *Law and Society in Visigothic Spain*, *Cambridge Studies in Medieval Life and Thought 3rd Series 5* (Cambridge 1972), p. 188 & nn. 2 & 3; Jarrett, *Rulers and Ruled*, pp. 42-43.

takeover of Visigothic justice by the new rulers.¹⁹ One of the Carolingian words in the document, *advocatus*, actually required glossing for the audience, it seems.²⁰ We may be reminded here of the record of the *Annals of Moissac* that when Narbonne surrendered to Pippin III in 759 it did so on condition that the 'Goths' there would be allowed to keep their own law.²¹ This, perhaps, is what that kind of concession (even though such is not recorded of Girona) looked like in operation.

But things do not appear thus again. Here is the next hearing I want to show you, from 842.²² This is actually the case where we have all three documents, the hearing record, the oath by the witnesses and the quitclaim by the losing party,²³ but for maximum comparability I'll give you the oath:

Oath to which, in the presence of the lord Godmar, bishop of the see of Girona, and by the ordination of Count Alaric, the *vassi dominici* Guadamir, Carpio and Quirç, the priests Eldefred, Grafilo and Donat, and the judges who were ordered to hear and determine the cases, that is, Viscount Ansemòn, Trasoer, Servedeu, Ovasí, Geronç, Salomó, Ildesèn, Samsó, Centrer, Venrell, Daniel and the *saio* Forte, or many other worthy men who were there present, the witnesses whom Ansulf, who is the mandatory of the aforesaid bishop Godmar, swore before Esclúa who is the mandatory of the aforesaid count, about the case whence dispute arises between them.

These are the names of the witnesses, that is, Martí, Ilderic, Giveric, Donat, Sanç, Domenèc, Maurebert, Riquer, Requesèn and Germà. We swear first of all by God, Father omnipotent, and by Jesus Christ his son, and the Holy Spirit, which is in Trinity the one and true God and by the relics of Saint Martin the confessor whose basilica is well-known to be sited within the walls of the city of Empúries, on whose sacrosanct altar we held this oath in our hands and touching it together swore, that we the above-written

¹⁹ Cf. the similar characterisation of the area's diplomatic in N. L. Taylor, "Testamentary Publication and Proof and the Afterlife of Ancient Probate Procedure in Carolingian Septimania" in K. Pennington, S. Chodorow & K. H. Kendall, *Proceedings of the Tenth International Conference on Medieval Canon Law* (Vatican City 2001), pp. 767-780, online at http://www.nltaylor.net/pdfs/a_Testamentary_Pub.pdf, last modified 9th December 2006 as of 24th June 2007, at p. 776 n. 25: "many of these charters exhibit both Frankish and Visigothic influences; one can imagine them written by Visigothic-trained scribes and *iudices* serving under Frankish *missi* in the Carolingian *mallus publicus*". The irony of this template will become clear below.

²⁰ Cf. C. West, "The significance of the Carolingian advocate" in *Early Medieval Europe* Vol. 17 (Oxford 2009), pp. 186-206.

²¹ Salrach, *Procés*, I pp. 5-7; the Annals are printed in Pertz, *Monumenta*, pp. 282-313.

²² Cat. Car. V 19.

²³ These being Cat. Car. V 20 & 21 respectively.

witnesses know and it is well remembered by us about the selfsame pasturage and toll from Empúries and also Peralada, whence the quarrel is between Ansulf and Esclúa.

We saw and we were present when the late Bishop Guimer, who was the antecessor of the aforesaid Bishop Godmar, came to the city of Girona, with the grace of the lord Emperor Louis of blessed memory, and thus he received fully the selfsame bishopric of Girona and also Besalú, Empúries and Peralada along with the selfsame pasturages and tolls that came from those counties. Wherefore, and by order of the aforesaid emperor, Count Bernard invested the late Bishop Guimer with the selfsame episcopate with the third part of the selfsame pasturage and toll of Girona and Besalú.

And he came to Count Sunyer here at the city of Empúries and showed him the imperial order; then the selfsame Count Sunyer immediately invested the above-recorded bishop fully with the selfsame episcopate of Empúries and Peralada with the third part of the selfsame toll and pasturage as much from the sea and from the land. And thus we saw the aforesaid late bishop or his men take and exact the third part of the selfsame pasturages and tolls from the aforesaid counties.

And when the selfsame Bishop Guimer passed on from this world he had full investiture thereof of everything that is recorded above along with the third part of the toll of the selfsame markets which are in those counties. And those things that we know we do rightly and truly testify by the above-noted oath in the Lord.

Oath given on the 12th day of the Kalends of September, in the third year after Emperor Louis died.

You will see that the formula behind these two oaths is the same, to the extent that we can actually see what words the copyist of the first one managed to lose by comparing it with this text. The most obvious difference here is the absence of the *missi*, of course, though they are to an extent supplemented by the *vassi dominici*. I wish I could tell you more about those three men, but in the scant sample we have they simply don't recur, so I can't say what other importance they may have had. They are, it probably doesn't need saying, not known at Louis the Pious's court; we still await a *Prosopographie de l'entourage de Charles le Chauve* but I doubt they would be there either.²⁴ I'll return to this in a minute. It's also interesting that a viscount

²⁴ The checks for Louis the Pious's courtiers made of course in P. Depreux, *Prosopographie de l'entourage de Louis le Pieux, 781-840*, Instrumenta 1 (Sigmaringen 1997).

could be a judge; again, this seems to suggest that judges here and now were not the essentially clerical class of legal experts we see in documents from closer to the year 1000. It's also interesting to see Bernard of Septimania carrying out imperial orders, something it's too easy to forget that he usually did; he was of course still very much a force in the area at the time of this hearing so his historical co-option would have been important, but whether this was what convinced Count Alaric to cave in, which he did and that's why we have the oath, we cannot say.²⁵

The political circumstances of the time are obviously important here, and I'm not ignoring them but I want to give one further document before I put together all these things I've been deferring. This is a hearing from 850, as dated, but perhaps properly from 860 since otherwise it seems to refer to a completely unknown count.²⁶ Either way, it goes like this:

In the judgement of Viscounts Ermido and Radulf and also in the presence of Otger and Guntard, vassals of the venerable Count Unifred, and also the judges who were ordered to judge, Ansulf, Bello, Nifrid, Guinguís, Floridi, Trasmir and Adulf, judges, and the other men who were there in that same placitum with those same men.

There came Lleo and he accused Bishop Godmar, saying that that same aforesaid bishop unjustly stole from me houses and vines and lands and courtyards that are in the *villa* of Fonteta, in Girona territory, that my father Estable cleared from the waste like the other Hispani, wherefore I made my claim before the lord King Charles so that, if it were so, he might through his letter order for us that the aforesaid bishop should return the aforesaid *aprisio* to me, if he were to approve. And while the aforesaid bishop, rereading, heard this letter, he sent his spokesman who might respond reasonably in his words in this case. Then I Lleo summoned that same mandatory of the aforesaid bishop, Esperandéu by name, because Bishop Godmar, whose rights he represented, stole my houses and courtyards and vines and lands that are in the villa of Fonteta or in its term, which I was holding by the *aprisio* of my father or I myself cleared, so that same aforesaid chief-priest did, unjustly and against the law.

Then the abovesaid viscounts and judges interrogated that same abovesaid mandatory of the abovesaid chief-priest as to what he had to answer in this case. That

²⁵ On the politics of the area see Salrach, *Procés*, I pp. 106-120, with discussion of this case and Count Alaric at pp. 107-110.

²⁶ *Cat. Car.* V 30; pp. 83-84 there discuss the dating.

man however said in his responses that he had his possession by legal edicts from that same Lleo, which that same Lleo had made before the abovesaid judges, that as for those lands for which the abovesaid chief-priest and his mandatory had previously appealed him, which are in the abovesaid *villa*, another man had cleared those houses from the wasteland and not him or his father, but whatever his father had or held in benefice in the selfsame *villa* or in its term, he had this from the late Count Gaucelm.

And while Esperandéu was presenting that profession in the court, that I Lleo had made and confirmed with my hands without any force, and it was found to be legally written, then I Lleo claimed before the abovenamed persons that Esperandéu brought this profession to be re-read by force, and that he made the claim of that same Lleo by force, [and/but?] I Lleo responded to myself and I said that in truth I had never been able to have [the properties].

Then they ordered my profession thereof to be written of the things which I Lleo have professed, and thus I make my profession that in all things the selfsame profession that I gave which that same Esperandéu showed in your presence here to be re-read in my voice, it is true about those selfsame things written there in all aspects and legally recorded, and I have confirmed with my hand, and neither today nor in any court can I prove that I made it under duress, but it is true thus just as is here recorded and the bishop did not take them from me unjustly by his same abovementioned mandatory already said, but the most venerable Charles, most pious king, for the love of God bestowed them upon Saint Felix, martyr of Christ, by his most just precept, which I have remembered, and so I profess.

The number of questions this document raises could be a paper in themselves. So much is missing: the contents of Charles the Bald's letter to Bishop Godmar, the reasons behind Lleo's abandonment of his plea of duress, and much more. The proceedings were clearly odd, but the document makes them seem much more so. Nonetheless, if we step away from the actual case and look at the process, firstly this time, we are in a lower level of court, despite the business at hand. No counts were available, and the *vassi dominici* are replaced instead by vassals of the absent count, who ought, if the dating can be revised, to be Marquis Hunfrid of Gothia. Nonetheless, the business is as serious as either of the previous documents, and it seems clear that not only was royal administration not involved, but that when one of the parties appealed to it, he was more or less fobbed off; the king didn't even want to be

involved, although we might guess that if Charles the Bald was far enough south to be in easy reach of aggrieved settlers, whom he was by now fairly regularly selling down the river anyway, he probably had his hands full with Aquitaine.²⁷

A story of decreasing intervention

These documents seem to show a slow degradation in the exercise of royal justice in this territory. We start with a Carolingian superstructure bolted onto a Visigothic process. Thereafter, the external *missi* are replaced by *vassi* who presumably had local roots, and by 860 or so even these had been replaced by comital followers. Now, this can all be relativised: even as late as 881 we can find references to Girona *malli publici* and in one of them, the bishop doesn't even entirely win, because the other party had a royal charter too.²⁸ Of course, with this preservation, we wouldn't expect any cases where the bishops didn't win something to survive, but it does show that the courts would not necessarily always have been in the lords' pockets. By Georges Duby's standards, that would still be proper Carolingian justice even though the court was loaded with vassals, and it's only having the full-on *missi* version from 817 that makes it look like less.²⁹ Even there, we could nuance things: neither of the most glorious *missi* appear to have been what you might call court regulars, although both had obtained immunities for their bishoprics from Louis the Pious in 814.³⁰ Even the Count of the Palace, Ragonfred, whose earlier action that document records, and seems to have been around between 794 and 820, only ever appears when the court was in the south, suggesting that the palace in question was probably one of Louis's in Aquitaine.³¹ So we don't have any basis to assume that men from Aachen ever descended on the March to sort things out without there being an army in tow except in one instance, which I'll finish with.

Of course, this is to load quite a lot onto three documents all of which, by their very nature, record an unusual gathering when something abnormal

²⁷ On Charles the Bald and the protection of settlers see J. Jarrett, "Settling the Kings' Lands: *aprisio* in Catalonia in perspective" in [Early Medieval Europe](#) Vol. 18 (Oxford 2010), pp. 320-342, to which cf. C. J. Chandler, "Between court and counts: Carolingian Catalonia and the *aprisio* grant, 778-897" in [Early Medieval Europe](#) Vol. 11 No. 1 (Oxford 2002) pp. 19-44.

²⁸ Cat. Car. V 53.

²⁹ Referring to G. Duby, *La Société aux XI^e et XII^e Siècles dans le Région Mâconnaise*, Bibliothèque de l'École Pratique des Hautes Études, VI^e Section (Paris 1953, 2nd edn. 1971, repr. Qu'est-ce c'est le féodalisme Paris 2001).

³⁰ Abadal, *Domini*, pp. 242-243, referring to the printing of the immunities in C. Devic, 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*, aug. E. Mabilie, E. Barry, E. Roschach & A. Molinier & ed. M. E. Dulaurier, Vol. II (Toulouse 1875; Osnabrück 1973), Preuves : chartes et documents nos 30 & 31.

³¹ Depreux, *Prosopographie*, no. 218.

had to be sorted out. Royal intervention clearly was dropping off: the last royal presence south of the Pyrenees was the disastrous campaign of 829 and thereafter, though the king being in the south always brought a flow of supplicants north looking for precepts, as indeed the graph shows with the siege of Toulouse in 844, and although even as late as 874 Charles the Bald promised that *missi* would be sent to attend to a dispute in Barcelona, perhaps because some sort of king's men were involved, this is still what we might call suitor diplomatic, not any kind of interventionist policy.³² But it remains true: only this once in 817, anywhere on the *Marca Hispanica* do we ever see *missi dominici* in court.³³ When we start to have court records in any number, the idea of external supervision of them has vanished. What had happened?

Of course, lots of things had happened, and to cherry-pick from the few things about which we actually know can only be hypothetical, but at least one or two look significant. In 820, as keen readers of the *Annales regni francorum* will know, Bera Count of Barcelona and Girona had been appealed for treason and replaced.³⁴ This was followed in 827 by a rebellion under a mysterious character called Aizó, whom Bera's disinherited son Guillemon quickly joined, that took a good third of the frontier out of Carolingian control.³⁵ This was the one time we can be sure that Aachen courtiers, other than Count Bernard who was of course in post there already, were sent to the March, as the *Annales* tell us:

... since Abbot Helisachar and the others with him sent by the emperor were administering considerable, and appropriate, remedy, with the counsel of their companions, to the Goths and *Hispani* of that region who required settling and soothing, and Bernard Count of Barcelona was also most pertinaciously resisting with shrewdness and fraudulent machinations the schemes of Aizó and those who had

³² The promise in Cat. Car. II ap. VII; the idea that these were somehow royal dependents to be gleaned from J. Lalinde Abadía, "Godos, hispanos y hostolenses en la órbita del rey de los Francos" in F. Udina i Martorell (ed.), *Symposium Internacional sobre els Orígens de Catalunya (segles VIII-XI)* (Barcelona 1991-1992); also published as *Memorias de le Real Academia de Buenas Letras de Barcelona* Vols. 23 & 24 (Barcelona 1991 & 1992), II pp. 35-74. On the importance of the recipients in Carolingian royal diplomatic, see M. Mersiowsky, "Towards a Reappraisal of Carolingian Sovereign Charters" in K. Heidecker (ed.), *Charters and the Use of the Written Word in Medieval Society*, Utrecht Studies in Medieval Literacy 5 (Turnhout 2000), pp. 15-25.

³³ The records from more northerly Rosselló show only *vassi dominici*; they are printed in P. Ponsich (ed.), *Catalunya Carolíngia VI: Els comtats de Rosselló, Conflent, Vallespir i Fenollet*, ed. R. Ordeig i Mata, *Memòries de la secció històrico-arqueològica LXX* (Barcelona 2006). No instances of either occur in the documents from Urgell printed in C. Baraut (ed.), "Els documents, dels segles IX i X, conservats a l'Arxiu Capitular de la Seu d'Urgell" in *Urgellia: anuari d'estudis històrics dels antics comtats de Cerdanya, Urgell i Pallars, d'Andorra i la Vall d'Aran* Vol. 2 (Montserrat 1979), pp. 78-143.

³⁴ F. Kurze as *Annales regni Francorum inde ab a. 741 usque ad a. 829, qui dicuntur Annales Laurissenses maiores et Einhardi*, *MGH SRG VI* (Hannover 1895; 1950), transl. B. Scholz & B. Rogers in *Carolingian Chronicles: Royal Frankish Annals and Nithard's Histories* (Michigan 1972), pp. 35-125, with commentary pp. 2-21, hereafter *ARF*; for deeper context see Salrach, *Procés*, I. pp. 39-46, and Abadal, *Domini carolíngi*, pp. 261-265.

³⁵ [*Ibid.*], pp. 270-280, is most judicious on this in my opinion.

defected to him, and was making all their temeritous attempts useless, an army had been sent, brought to the aid of Aizó by the king of the Saracens Abd al-Rahman...³⁶

Those same keen readers will also know how this ends, with that fateful army of 829, but the point may be that one reason that has been adduced for this coup is local resentment at a royal failure to keep the promise that is assumed to have been made in 785, and perhaps again in 801, that the Goths would be allowed to keep their own law.³⁷ By this paradigm we would see in 817 a Carolingian version of that promise in which, however, foreigners were given the ultimate say in the old Gothic court, rather than the law as dictated by judges. I think, as you may have guessed, that there are problems with assuming so rigid a legal template so early, and have an alternative suggestion for why we might be seeing such changes in these documents.

In the 842 case, even though it involved fiscal rights disputed between a bishop and a count, surely a textbook pretext for royal intervention, there was none and the question was settled by local witnesses. Why? The clue may be in the dating clause: “the third year after Emperor Louis died”.³⁸ Who was the king to whom the disputants could send for a judgement? There was none clear; this was the middle of the *Brüderkrieg* and Aquitaine was pretty much a royal no-go area.³⁹ Even if Bernard of Septimania had not been in rebellion against the king, which of course he was though whether that really mattered in Count Alaric’s Empúries is harder to say, the court was not open for business. Some have suggested that the Battle of Fontenoy was what really robbed the Carolingians of their ideological right to rule, but we have seen with Catalonia that the ideological right was sustained as long as humanly possible.⁴⁰ The practicalities, on which more recent scholarship has tended to focus, were a bit messier, however. If a polity such as the Carolingian Empire relied on drawing people to court, as surely it did, what effect did it have on the periphery when that court was uncertain, unavailable or even hostile?⁴¹ We may here be seeing one answer, which is that they fell back on the resources to hand, and here at least found them sufficient. How many other

³⁶ *ARF* s. a. 827.

³⁷ See n. [21] above.

³⁸ *Cat. Car.* V 19: “*in anno tercio postquam obit Lodovicus imperator*”.

³⁹ Best discussed now by J. L. Nelson, *Charles the Bald* (London 1992), pp. 105ff.

⁴⁰ J. L. Nelson, “Violence in the Carolingian World and the Ritualization of ninth-century Warfare” in G. Halsall (ed.), *Violence in Early Medieval Society* (Woodbridge 1997), pp. 90-107, cit. J. Gillingham, “Fontenoy and After: pursuing enemies to the death in France between the ninth and eleventh centuries” in P. Fouracre & D. Ganz (edd.), *Frankland: the Franks and the World of the Early Middle Ages. Essays in Honour of Dame Jinty Nelson* (Manchester 2006), pp. 242-265 at p. 246 n. 17 among others; Gillingham’s perspectives are worth comparing, as are his references.

⁴¹ I find this picture of Carolingian government most thoroughly worked out in M. Innes, *State and Society in the Early Middle Ages: the middle Rhine valley 400-1000*, Cambridge Studies in Medieval Life and Thought 4th Series 47 (Cambridge 2000), pp. 141-241, esp. 141-156, but a more schematic version of Innes’s thought can be found in his “Charlemagne’s Government” in J. Story (ed.), *Charlemagne: Empire and Society* (Manchester 2005), pp. 71-89.

places might we see the same situation, where the wait for a king fatally eroded the readiness of local populations to look to the court for solutions? Catalonia's ideological connection to the Carolingians still looks odd, but in its more practical experience of royal authority, it may have been a good deal more typical than is usually appreciated.