Tours of the Libraries of Reichenau and St. Gall

Laws and Formularies in Reichenau and St Gall manuscripts

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In the middle of a ninth-century catalogue of books belonging to the monastery of St Gall, **a list of law-books** is given. It includes texts from the three main forms of secular law current at the time: Roman law; the law-codes of the 'barbarian' successor-states; and capitularies, new legislation issued in the form of shorter individual texts listing royal decisions under separate headings (*capitula*).

The first law-book described in this catalogue is fairly typical. It apparently contained what is referred to here as the 'Theodosian Law', a massive code of Roman law issued by the emperor Theodosius II in 438, probably here in an abbreviated version current in the post-Roman West under the name *Lex Romana Visigothorum*. Also included in the same volume were a 'Law of the Franks', which could correspond to either Salic law, dating from around 500 in its earliest form, or the later Ripuarian code – or perhaps both; and, finally, Alemannian law, a law-code also current in the area of St Gall and Reichenau, issued in the early eighth century (the **oldest surviving text of this code** is also present in this exhibition). In addition, the catalogue shows the monastery also owned one book of capitularies of Louis the Pious; one book of Charlemagne's capitularies, copied alongside biblical glosses; one of *Capitula legibus addenda* (capitularies specifically intended to be added to existing law-codes); another one of Roman imperial legislation – probably 'novels', new legislation issued by emperors after Theodosius's codification effort, and usually appended to his code; and some instructions from Louis the Pious on the Benedictine Rule.

The monks, it seems, were covering all possible bases. The books described in the catalogue are difficult to identify with any surviving manuscript, though the same texts can be found in this virtual exhibition (with the curious exception of Roman law). In fact, the volume in which this list is found is itself a law-book, containing **Books III and IV** of the collection of capitularies compiled by Ansegis in 827; a text known as the ***Recapitulatio solidorum***, an attempt to clean up and sort out the amounts prescribed in compensation for particular wrongs or injuries in Salic law; some excerpts from Isidore of Seville's ***Etymologies***, the closest thing to an early medieval encyclopedia, explaining the meaning of various legal terms; a capitulary of Charlemagne containing **additions to Salic law**; and finally the **Carolingian version of Salic law** and the **Ripuarian law-code**.

This all amounts to quite a lot of secular law, very little of which looks at first sight as if it had much to do with the running of a monastic establishment. As with many other texts, the Carolingian period saw an explosion in the number of legal manuscripts being copied, and many of these were the product of monastic and ecclesiastical *scriptoria*. Why did monks – here and elsewhere – copy this material at all? Although monks were by definition set apart from lay society, Carolingian monasteries were far from being isolated or out of touch, as we might think of modern monasteries: rather than being islands of serenity, they were very much at the centre of things, and played an important economic and political role in their locality, and sometimes much beyond it. Abbots in particular were often very well connected, and could be important players on the scale of the kingdom. One such abbot, for instance, was **Ansegis**, who compiled the collection of Charlemagne's and Louis the Pious's capitularies: he had been trusted as a royal envoy, and being in a monastery clearly did not stop him from remaining plugged in to the life of the court.

Monasteries also wielded a substantial amount of local power, as they were more often than not the main landowners in their own area. They often provided documents both for their own transactions and for those of the laity living in their neighbourhoods, and abbots could be asked to intervene in local disputes. One manuscript in this exhibition shows that a hope of future land gifts led the monks to compile a **series of models** (known as a formulary) with standard beginnings and endings for a donation document: a portfolio of appropriately generous and God-fearing sentiments from which patrons could probably pick and choose. The emphasis on the written word in monastic communities was not solely driven by their professional interest in the religion of the Book; the need to administer their extensive lands played a role too. Their stake in producing and reproducing written rules went beyond the religious life, and also applied to more secular interests.

The various forms of secular law current in the Carolingian kingdoms differ rather dramatically from our own understanding of law, in several ways: for instance, although we have plenty of manuscripts, it is difficult to say whether they were really being used, since actual documents hardly ever refer to any particular written law. Frankish laws also run against our most fundamental modern assumptions in that it is difficult to see in what sense old law may have been replaced by new legislation, as opposed to simply coexisting alongside it.

This is nowhere more obvious than in the 'barbarian' law-codes. Although they are written in Latin and were influenced by Roman law, they also contain many things which are foreign to the Roman tradition, such as lists of compensation payments for various kinds of injury, to be paid as an alternative to direct retaliation: see **here** for an example from Alemannian law. This led some legal historians in the nineteenth century to consider these codes as an undiluted reflection of each Germanic people's ancestral customs: *Volksrecht* ('people's law'). This view has now been dismissed, but even if they were not Volks-, such laws were undeniably 'folksy' – looking to the past rather than the present, and sometimes deliberately old-fashioned. The new, Carolingian version of Salic law, for instance, actually went out of its way to reintroduce archaisms into its text: for instance **clause LXI**, which had been removed from a previous reissue because it had not been in use 'since the time of the pagans', explaining what should happen if a killer could not pay his fine and wanted to pass on the debt to his family (apparently he had to swear with twelve oath-helpers that he could not pay, then go and take a fistful of earth from the four corners of his house, then, while standing on his doorstep, throw it over his left shoulder onto his closest relative, and finally jump over his fence with a stake in his hand and wearing only a shirt).

This interest in the Frankish past (including some of its more bizarre customs) sits uncomfortably with modern expectations that law should reflect, or even bring about, change. In this sense Salic law, by the Carolingian period, was probably no more current than Roman law. But this interest in the past was not purely antiquarian: law seems to have played an important role in identity politics. The **new prologue** for Salic law issued by Pippin, Charlemagne's father, brings this home in an even more over-the-top way than older versions:

> 'The glorious people of the Franks, founded by God, strong in arms, firm in treaties, deep in counsel, radiant in body, distinguished in appearance, audacious, quick and rugged, once converted to the catholic faith, immune from heresy, as they held back from their former barbarian rite through God's inspiration, searching for the key of knowledge, desiring justice according to their customs and guarding their piety, pronounced Salic law through the great men of their people…'

Change and new legislation are more easily found in capitularies, but these present problems too. While the different 'barbarian' law-codes are relatively alike in their aspiration to comprehensiveness, and often include much the same sorts of topic, capitularies are much more difficult to characterise because they vary so widely in scope and level of formality: while some are so ambitious in scope as to resemble a law code, others could be described as laws only through a superhuman amount of good will, and look more like minutes of meetings, memos or checklists. The ***Capitulare de villis***, for instance, is a set of instructions on how to administer royal lands, and has more of a flavour of housekeeping about it (the manuscript included in this exhibition is the sole surviving copy, and it is interesting to find it in a monastery – perhaps the monks were thinking of taking, not so metaphorically, a leaf out of Charlemagne's book: this text is immediately preceded by examples of how to draw up an inventory, the ***Brevium exempla***). Apart from this variety in the appearance and level of formality of capitularies, Carolingian kings seem to have made no attempt to diffuse these texts in a systematic manner, so that even a very well-meaning judge would have found it difficult to look things up in them: although kings were apparently keen to issue these texts left, right and centre, attempts at codification remained essentially the work of enterprising individuals such as Ansegis.

Secular law, of course, was not the only kind of law the monks of St Gall and Reichenau would have been interested in. On the **opposite page** to our catalogue of law-books, much less clearly marked out and hanging on at the end of an inventory of saints' lives, we find a list of texts which we would now categorise as canon law: canons of councils and synods, or papal decisions (decretals), which among other things sought to regulate the way of life of the clergy. These are presented alongside various other texts which could broadly be categorised as normative, such as liturgy or penitentials. If capitularies remained very plastic and fluid, this is even more true of canon law, which would not become formalised until the great codification efforts of the twelfth century.

Although secular and canon law are now seen as two profoundly separate branches, this is largely in hindsight, on the basis of the later medieval tradition: in the Carolingian period the closeness between secular and religious concerns created porous boundaries between capitularies, accounts of synods, and papal decretals. Carolingian kings took great interest in the life of the clergy and of monks, so that some of their capitularies are sometimes hard to distinguish from either canon law or a monastic rule – as in **this capitulary** of Louis the Pious, often appended, as it is here, to the Benedictine Rule in manuscripts. The *Admonitio generalis* of 789, one of Charlemagne's most famous capitularies, had also included long excerpts from the canon law

collection known as the ***Dionysio-Hadriana*** (thus named because it was an augmented version of the canon law collection put together by Dionysius Exiguus around 500 AD, which Pope Hadrian I presented to Charlemagne after his conquest of Italy in 774). Although it was much copied, this collection did not gain the status of a unique 'authorised version', nor did it become a very common reference text until later in the ninth century. Older texts were still in circulation: the *Collectio Hibernensis*, for instance, originally from Ireland, was especially popular, and like other collections could be plundered for extracts to be used in further compilations, as in **this example**.

As with capitularies, most collections of canon law seem to have been the result of private initiative, more often than not a lone enterprising bishop; and there were therefore many different competing ways of assembling – and sometimes straightforwardly inventing – this material (the most famous forgeries being those of **Benedict Levita** for capitularies and **Pseudo-Isidore** for canon law). These texts were certainly normative, but with many texts of various origins circulating at the same time, and all, it seems, with equal authority. Canon law was particularly hybrid in its sources of inspiration: collections could include extracts from councils; papal letters and decretals; extracts from penitentials; or even simply extracts from the Bible, since Mosaic law was, after all, the original fount from which all others flowed. Collections such as those included in **St Gall 682** or **St Paul in Lavanttal 6/1** show an effort of compilation comparable to the *Dionysio-Hadriana*, even when their particular assemblage went no further than a single manuscript.

The varying guises under which laws, whether secular or religious, circulated throughout the Carolingian kingdoms show us that an apparent lack of concern to impose uniformity in content or organisation did not exclude a very strong sense of the authority and importance of such texts. Although one could reproach Carolingian kings for having made no attempt at a final, standard codification in the tradition of Roman emperors, the fact that kings' enthusiasm for issuing legal texts was apparently matched by a considerable enthusiasm for compiling them at the receiving end is also an important measure of their success. Even though Carolingian rulers never had much control over the legislation circulating in their kingdoms, even that circulating under their own names, they nevertheless clearly managed to create a demand for it. If the initial impulse was from the court, the diffusion of these texts proceeded through more diverse and personal channels. What makes this material so problematic, so non-uniform and so unreliable can also be taken, perhaps paradoxically, as a sign of its success.

Further reading

General:

- R. McKitterick (1989) *The Carolingians and the Written Word* (Cambridge), 23-75
- J.L. Nelson (1996) 'Literacy in Carolingian government', repr. in J.L. Nelson, *The Frankish World, 750-900* (London), 1-36, orig. in R. McKitterick ed., *The Uses of Literacy in Early Medieval Europe* (Cambridge, 1990), 258-96
- P. Wormald (1999) *The Making of English Law: King Alfred to the Twelfth Century, vol. I, Legislation and its Limits* (Oxford), 29-92

'Barbarian' law-codes:

- P. Wormald (1999a) 'Lex scripta and verbum regis', repr. in P. Wormald, *Legal Culture in the Early Medieval West* (London), 1-43, orig. in P.H. Sawyer and I.N. Wood eds., *Early Medieval Kingship* (Leeds, 1977), 105-38
- P. Wormald (2003) 'The leges barbarorum: law and ethnicity in the post-Roman West', in H.-W. Goetz, J. Jarnut and W. Pohl eds., Regna and Gentes (Leiden), 21-53

Capitularies:

- S. Airlie (2009) '"For it is written in the law": Ansegis and the writing of Carolingian royal authority', in S. Baxter, C.E. Karkov, J.L. Nelson and D. Pelteret eds., *Early Medieval Studies in Memory of Patrick Wormald* (Farnham), 219-35
- F.L. Ganshof (1971), 'The use of the written word in Charlemagne's administration', tr. J. Sondheimer, in F.L. Ganshof, *The Carolingians and the Frankish Monarchy* (London), 125-142
- J.L. Nelson (1986b) 'Legislation and consensus in the reign of Charles the Bald', repr. in J.L. Nelson, *Politics and Ritual in Early Medieval Europe* (London, 1986), 91-116, orig. in P. Wormald ed., *Ideal and Reality: Studies in Frankish and Anglo-Saxon Society Presented to J.M. Wallace-Hadrill* (Oxford, 1983), 202-27
- C. Pössel (2006) 'Authors and recipients of Carolingian capitularies', 779-829, in R. Corradini, R. Meens, C. Pössel and P. Shaw eds., *Texts and Identities in the Early Middle Ages* (Vienna), 253-74

Canon law:

- L. Kéry (1999) *Canonical Collections of the Early Middle Ages (c.400-1140): A Bibliographical Guide to the Manuscripts and Literature* (Washington DC)
- J.L. Nelson (2008) 'Law and its applications', in T.F.X. Noble and J.H.H. Smith eds., *The Cambridge History of Christianity vol. 3: Early Medieval Christianities, c. 600-c. 1100* (Cambridge), 299-326

Formularies:

- A. Rio (2009) *Legal Practice and the Written Word in the Early Middle Ages: Frankish Formularies c. 500-1000* (Cambridge)