Legislation, Genre and Politics in Late Carolingian Italy: the Ravenna Constitutions

Introduction

To modern historians late-ninth-century Italy has always seemed a dark place, characterised by political and social disintegration as the Carolingian dynasty lost its exclusive grip on royal power. To some extent this sense of decay is informed by a decline in the amount of evidence available for studying contemporary politics and society.¹ The problem is posed not so much by the paucity of narrative sources (a fact of life for historians interested in almost any period of early medieval Italy), nor by a drop in the survival rates of charters, the bedrock of local histories, which continue at a steady rate.² Rather, it is the sharp decline (and ultimate demise) of the legislative documents known as capitularies which has seemed more telling.

Capitularies were legislative texts that recorded the decisions reached by kings in discussion with their leading men, and communicated them to the wider political community.³ The almost complete absence of these quintessential governmental

³ The classic study was F.L. Ganshof, Recherches sur les capitulaires (Paris, 1958); most recently see M. Geiselhart, Die Kapitulariengesetzgebung Lothars I. (Frankfurt, 2002); M. Innes, ‘Charlemagne’s Government’, in J. Story (ed.), Charlemagne: Empire and Society (Manchester, 2005), pp. 71-89; C.
instruments in the later Carolingian period seems, superficially, to betoken increasing institutional and political frailty, and to signal the atrophy of royal legal activity, one of the primary peacetime functions of early medieval kings. The capitulary tradition held on more tenaciously in Italy than elsewhere, reflecting the kingdom’s precociously literate legal culture. Nevertheless, after Louis II’s capitulary of 866, we have only four such documents from the next three decades: two from the short reign of Charles the Bald in 876, and then two more from the post-Carolingian rulers of Italy, Guy and Lambert of Spoleto, in 891 and 898. This group of texts represents the tail end of the capitulary tradition not only in Italy, but indeed throughout the empire: after the death of Charles the Bald in 877 there are only two west Frankish capitularies, both from the reign of Carloman II in 883-4. This meagre haul is no mere accident of survival, and represents a huge drop in absolute numbers of texts by comparison with the era’s most prolific legislators: some 100 capitularies are attributed to Charlemagne (768-814) alone, with roughly 50 each from the reigns of

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5 A. Boretius and V. Krause (eds.), Capitularia regum Francorum, 2 vols. (MGH Leges section III, Hanover, 1883-97), vol. 2, nos. 286-7. These figures do not include royal promissiones and other such sources; as they are intended to be impressionistic, I will sidestep at this stage the problems of classification that our texts present.
Louis the Pious (814-40) and Charles the Bald (840-77). The dwindling of royal legislative activity at the tail end of Frankish domination in Italy provides the focus for this article. Using a case-study based on a group of documents from the year 882, my aim is to discuss and re-evaluate aspects of the relationship between royal legislation and politics in a period when both are conventionally considered to have been in the throes of disintegration. We must begin, however, by rehearsing some preliminary points about early medieval legislation.

The reduction in the rate of capitulary production has been interpreted as symbolising not simply a corrosion of the mechanics of Carolingian government, but also a malaise in deeper political structures, because the act of lawgiving was one of the fundamental prerogatives and expected functions of early medieval kings. The promulgation of written law, a tradition inherited from the late Roman Empire and enthusiastically adopted by the barbarian rulers of late antiquity, was taken up in turn by the Carolingian dynasty and used to shape the identities of the peoples (Franks and others) over which they ruled. Many of the so-called ‘ethnic’ lawcodes of the barbarian peoples were revised and reissued by the Carolingians, and in some cases put into writing for the first time.\(^6\) Capitularies were a subtly different kind of law: recent historians have often preferred to define them more as statements of intent than as legislation per se.\(^7\) Yet it is abundantly clear that the worlds of the barbarian lawcodes and the capitularies did coincide, particularly in Italy, where capitularies


\(^7\) M. Becher, Eid und Herrschaft. Untersuchungen zum Herrscherethos Karls des Großen (Sigmaringen, 1993), p. 15.
were simply added to manuscripts as a direct continuation of ‘ethnic’ Lombard law.\textsuperscript{8} Because of this, in Italy above all, the caesura in the capitulary tradition in the last years of the empire represents a rupture in a much longer continuum of written legislation and has been taken to indicate not only the absence of effective royal government, but also the growing fragility of an entire political system.\textsuperscript{9}

Conventional discussions of the capitularies depend on modern historians’ confidence in the classification of legal texts and their functions, a taxonomy originally devised by nineteenth-century editors. Yet one of the most characteristic aspects of these texts is their great formal variety.\textsuperscript{10} Recent research thus counsels against too rigid a categorisation, and the precise function and constitutive force of capitularies is hotly debated. While some historians argue that their written-ness was crucial both practically and ideologically, others have contended that oral promulgation was the constitutive element, and that the surviving written texts (almost none of them

\textsuperscript{8} Wormald, Legal Culture, p. xiii.


originals) were of secondary importance. Adding to the uncertainty is the fact that the construction of many of the surviving documents reveals close similarities with other classes of text. Many share features with records of church councils, whose structure had a clear influence on their origins and development. Some show the influence of epistolary form, and several include one or more of the authenticating formulas normally associated with royal charters. The reception of these documents also highlights this blurring of genres: although some manuscripts appear to have been constructed specifically as lawbooks, capitularies were often excerpted and repackaged with a disparate range of other types of material, including theology and history. On close inspection, then, the boundaries between capitularies and other types of text begin to look permeable, and traditional categorisations start to dissolve.


14 See the works cited at n. 11.
at the edges. This suggests that we should be prepared to imagine a cluster of overlapping legal genres, which had their own identities and are therefore often studied in isolation, but which sometimes converged with each other in particular circumstances.\(^\text{15}\)

These two related contexts (the definition of capitularies as a genre, and their general application to the study of political history) provide the background against which this article’s case-study is set. Questioning the traditional classification of capitularies encourages us to set aside assumptions about the meaning of the genre as a whole, and to consider instead the significance of individual texts in context. Accordingly, the main body of this article will focus quite tightly on some hitherto under-valued evidence for royal legislative activity in Italy during the 880s which appears to straddle the accepted genre barriers. The texts we will be discussing are a series of six charters issued at Ravenna in 882 by the last Carolingian emperor and ruler of Italy, Charles III ‘the Fat’ (879-88).\(^\text{16}\) The fact that these diplomas contain legislative material, and have a legislative tone, makes them unusual. Historians have long acknowledged this: in 1942 Edmund Stengel dubbed them the ‘Ravenna constitutions’

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\(^{15}\) These remarks are not meant to imply that there was no contemporary awareness of capitularies as a genre, evidence for which is collected by Pössel, ‘Authors and Recipients’, p. 268.

in recognition of their peculiar legal content.\textsuperscript{17} Nevertheless, although they have been mined for information by historians of medieval social status, they have not previously been studied as texts.\textsuperscript{18} Even historians specifically interested in the debate over the forms and functions of Carolingian legal documents have ignored them, presumably because of the editorial decision to publish these texts in the MGH series of royal charters and not that of capitularies. My aim is to reconstruct the contexts which influenced their form and content and thus to unlock their potential to tell us not only about legislative aspirations and attitudes to written and oral law, but also political circumstances and royal self-representation.\textsuperscript{19} Ultimately, this will allow us to reflect on some broader issues regarding the capitulary genre and its demise.

**The Ravenna constitutions**

No capitularies are known to have been produced south of the Alps during the decade or so which separated the Italian reign of Charles the Bald (875-77) from that of Guy of Spoleto (888-94). Karlmann (877-79) and Charles the Fat, whose reigns cover this


\textsuperscript{18} G. Tabacco, I liberi del re nell’ Italia carolingia e postcarolingia (Spoleto, 1966), pp. 67-87.

period, were thus the only kings of Italy between the Frankish conquest of 774 and the end of the empire in 888 who failed to begin their reigns by issuing a capitulary as a means of signalling a claim to traditions of legitimate kingship and as a promise of good government. Yet other sources suggest that links between the monarchy and the legal traditions of the Italian realm remained active during the 880s. There is good evidence, as François Bougard has shown, that Charles the Fat’s reign saw an increase in the number of royal judges, and a standardisation of the ways that disputes were settled and recorded. It is a matter for debate whether these developments were the outcome of a royal policy, or rather a consequence of autonomous notarial activity. Either way, it is worth noting that Charles’s reign also witnessed the revived political centrality of the city of Pavia, the old Lombard capital and centre for the organisation of royal justice, which had lost some of its exclusivity under his predecessors. Furthermore, Charles took an unusually prominent interest in judging placita (dispute hearings), either personally or through his missi (royal emissaries).

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The significance of this was not so much procedural as political. Because kings could be idealised as guarantors of justice, Charles’s involvement in *placita* signalled his adherence to the conventional apparatus of Italian rulership. The holding of judicial assemblies before the great and the good of the realm created a sense of the king’s legitimacy and renewed his association with the political community: it served, in the words of Bougard, as a recurring ‘ritual of auto-affirmation.’ This evidence for the persistence of links between the royal court and the dispensing of justice should thus be read primarily as revealing a series of political statements or postures rather than as a way of calibrating institutional change. These postures provide the immediate context for our legislative charters, the Ravenna constitutions.

Charters were by their very nature legal documents, sanctioning as they did grants of land and privileges (often judicial) to favoured followers. Strictly speaking, however, they were not normally legislative instruments. Charter formulas were, moreover, very sensitive to changes in the wider social and political environment: apparently small peculiarities in their wording can provide good evidence for significant political developments. This is why the idiosyncrasies of the ‘constitutions’ of 882 are so useful. The documents in question were issued between February 13-15 for the bishops of Reggio, Verona, Arezzo, Cremona and Bergamo.

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25 See above all Krause, ‘Königtum und Rechtsordnung’.

and for the monastery of Brugnato. These diplomas have the absolutely orthodox formulaic apparatus one would expect in royal charters of the period. Four of the six are identical, other than the names of the beneficiaries, while the variations in the other two are very slight: all six were designed, it is clear, according to a common template. After the introductory formulas, the template continues with a narrative which outlines how the free living on the churches’ lands were being unjustly oppressed by counts and other officials. However, rather than proceeding to issue a simple grant of immunity and protection, as one would normally expect, the text then specifies three short legal regulations concerning the arimanni (an old Lombard term for the free). Respectively, the clauses’ terms:

i) prohibit counts and other royal representatives from unfairly imposing upon the arimanni and others on church land, especially when conducting courts;

ii) instruct lords (patroni) that they should escort freemen off their (the lord’s) land when they have been summoned to the comital court;

iii) attempt to make illegal any claims to land based on charters which have not first been validated by a court hearing, thereby protecting all (free) possessors.

These regulations, especially the first two, are similar to those often found in charters of immunity. However, three main features make it clear that these documents were quite different in content from normal privileges of immunity, and indeed had a lot in

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28 See for instance Kehr (ed.), Die Urkunden Karls III., no. 111.
common with capitulary legislation. Firstly, in both subject matter and wording, the clauses have direct precedents in the mainstream of the capitulary tradition, and manuscripts of previous capitularies which featured similar clauses were copied and circulated in late ninth-century Italy. Indeed, the charters appear to refer directly back to earlier capitularies by lamenting how contemporaries were ‘ignoring the prohibitions of our predecessors.’ These older texts sit just below the horizon, informing the content and tone of our Ravenna charters and potentially influencing the way they were understood. Secondly, it is striking that the legislative clauses were intended to be generally applicable: the provisions were to be ‘promulgated everywhere [generaliter promulgata]’ within the kingdom of Italy. We can furthermore be confident that this actually happened. Not only do we have six examples of the charter issued simultaneously, all authorised by known royal notaries, but we also know that now-lost copies issued for several other Italian churches once existed. This general character clearly distinguishes these texts from the normal


30 Some historians, following E. Dümmler, Geschichte des ostfränkischen Reiches, 3 vols. (2nd edition, Leipzig, 1887-8), vol. 3, p. 185 believe the provisions to have applied only on the lands of the recipient institutions throughout the empire, but the geographical specificity of the text ‘(in toto regno Romanorum et Langobardorum et ducatus Italiea, Spoleti et Tusciae’) makes this unlikely.

31 For example, T. Sickel (ed.), Die Urkunden Ottos des II. und Ottos des III. (MGH Diplomata regum et imperatorum Germaniae II/i-ii, Berlin, 1888-93), Otto II, no. 253 suggests Luni had one of these
format of royal charters, whose terms were only applicable to the recipient. The
distinction is illustrated by Louis II’s charter for the church of Piacenza which served
as a direct verbal model for the Ravenna template and which also contained some of
the latter’s legislative material, but which specified the clause in question as pertinent
only to the Piacenza immunity and not the whole realm.32

Thirdly and finally, we can demonstrate that contemporaries understood these
diplomas not only as privileges to individual churches, but also as generally
applicable legislative acts. The capitularies of Guy of Spoleto and his son Lambert,
issued in 891 and 898 respectively, were constructed self-consciously in the
Carolingian tradition, both in form and rhetoric, and both contained clauses which
echoed the legislative charters of Charles the Fat.33 Tellingly, Guy’s legislation
repeated verbatim a clause from the Ravenna constitutions, namely that concerning
the necessity for pre-validated charters to support any claim to land.34 In his circle at
least, the constitutions of 882 were interpreted as part of the main tradition of royal
legislation.35

32 Wanner (ed.), Ludowici II Diplomata, no. 56. The importance of this distinction is underlined by
Wormald, ‘Lex scripta’, p. 3. See also McKitterick, Carolingians and the Written Word, p. 30.
33 Boretius and Krause (eds.), Capitularia, vol. 2, no. 224, cc. 1, 3; no. 225, c. 6.
34 Ibid, vol. 2, no. 224, c. 5. The charters’ provisions did not appear under Charles the Fat’s name in
the later legal compilation known as the Liber Papiensis: this, however, was not comprehensive and
cannot be used as a guide to perceptions of royal legislation in the ninth century.
35 Note also the Ravenna text’s description of itself as ‘institutio’, a term more commonly used to refer
to capitularies than charters (J. Niermeyer, Mediae Latinitatis Lexicon Minus (Leiden, 1976), p. 546);
Working from a different perspective, Giovanni Tabacco studied this material in detail and concluded that the charters represented evidence for a lost capitulary. However, the mechanisms by which a capitulary’s provisions might somehow seep into several contemporary charters in this way seem obscure. The more likely explanation, given all the unusual features outlined so far, is that the charters themselves were intended to be the legislative tools of the emperor. The Ravenna constitutions further our appreciation of the fluidity of contemporary legal genres and the potential treachery of modern categorisations. These were certainly royal charters. Charters had fixed formulas of authentication in a way that, as a rule, capitularies did not, and contemporary handbooks (formularies) were compiled to assist in their correct design. Later kings also issued confirmations of the Ravenna charters as if they were individual privileges. At the same time, they were designed

and the drafters’ emphasis on the agreement of all present, including ‘our spiritual father the supreme Roman pontiff and universal pope, the lord John [VIII]’, and ‘most of the venerable bishops and the people’, which went well beyond the conventional. For the stress on consent as a key feature of legislative texts see J.L. Nelson, ‘Legislation and Consensus in the Reign of Charles the Bald’, in her Politics and Ritual in Early Medieval Europe (London, 1986), pp. 91-116, esp. p. 108; and Pössel, ‘Authors and Recipients’. Diurni, Le situazioni possessorie, p. 282 notes also the unusually high value of the penalty clause (100 pounds of gold).


L. Schiaparelli (ed.), I Diplomi di Berengario I (Fonti per la Storia d’Italia 35, Rome, 1903), no. 74; L. Schiaparelli (ed.), I Diplomi italiani di Ludovico III e di Rodolfo II (Fonti per la storia d’Italia 37, Rome, 1910), Louis III, nos. 2, 7; Sickel (ed.), Die Urkunden Ottos des II., no. 252.
to have (and were understood as having) general legislative force in ways which diverged from the intention of standard royal diplomas.\textsuperscript{38}

\textbf{Character: legislation and legal force}

In view of these peculiarities, it is worth asking what pointers the legislative charters of 882 might give concerning the issuing and reception of legislation. Hamstrung by the relative dearth of original texts, historians have long argued over the precise significance of the form and intention of Carolingian capitularies. Debate has focused on what originals may have looked like, whether or not they were kept and consulted as written legal guides, and whether they were legally constituted in oral or written form.\textsuperscript{39} Although this debate has considered the handful of capitularies which survive with charter-like authenticating formulas, the information provided by the Ravenna group from 882 has not been taken into account because, as already mentioned, these documents were not included in the standard edition of the capitularies. Yet their relevance to the discussion is clear, particularly as two of the charters (those for Arezzo and Cremona) survive as originals, highly unusual for Carolingian legislative material. As such, they are worth taking seriously as evidence for the giving and receiving of law in the late ninth century.

One point worth making in this respect is that these documents survived not only as parts of the recipients’ archives. Stengel, investigating a peculiar charter issued by


\textsuperscript{39} See above, n. 11.
Henry II in 1016 for the German monastery of Amorbach, traced the main features of
the diplomatic back to a now-lost privilege drawn up for the abbey by Charles the Fat.
Due to its distinctiveness, he argued convincingly that the template was based on the
wording of the Ravenna constitutions of 882, and that the most likely time for the
promulgation of the Amorbach text was in spring of that year, as Charles travelled
north across the Alps to take over the kingdom of his recently-deceased brother.  
One incidental implication of this argument is that Charles the Fat’s chancery must
have kept copies of the Ravenna legislative template, which supports the view that its
unusual form owed its existence to the initiative of the king and his advisers. Charters
of confirmation were normally composed on the basis of copies retained and brought
to court by the beneficiary. It was sometimes specified that copies of capitularies, on
the other hand, should be retained in the (elusive) palace archive.

Some historians, most consistently Reinhard Schneider, have argued that many
capitularies were originally issued with charter-like authenticating formulas. Were
this the case, however, it seems difficult to explain why so few of the large corpus
have survived with formulas of subscription, dating and so on. In the case of the
Ravenna constitutions it would seem likely that the purpose of this deployment of
established forms of written authentication was less to validate the royal provenance
of the legislation than, for reasons which will become clear, to ensure that copies were
kept by the beneficiary churches. The closest precedents were the so-called

40 Stengel, ‘Karls III. verlorenes Privileg’.
41 See McKitterick, ‘Zur Herstellung von Kapitularien’.
42 Schneider, ‘Zur rechtlichen Bedeutung’, esp. pp. 274-81 (listing around 16 such texts); Schneider,
'Constitutiones de Hispanis’ issued by a succession of earlier ninth-century rulers, which contained legislative material in a semblance of charter form. Copies of these texts were ordered to be kept in various church archives spread throughout the Spanish March, as well as in the royal palace. The demand may not have been universally heeded, since the text of Louis the Pious’s version (to take one example) survives only in a single late cartulary. Charles the Fat’s decision to embed legislative exhortation in the body of royal privileges anticipated this problem and ensured that his legal pronouncements would be inserted directly into the archival records of the institutions he was evidently most concerned to reach, namely the major churches of Italy.

The traffic was not, however, all one way, with the court issuing commands to the bishops and having them followed automatically. Our texts also provide rare evidence for the reception of Carolingian legal stipulations. As mentioned, four of the charters are worded identically; but the examples from Reggio and Brugnato differ slightly by transposing the generally applicable regulations of the other charters into a register much more favourable to the churches themselves. Instead of recording the duty of church patrons to escort their freemen to comital courts, for example, they

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44 Mordek, ‘Kapitularien und Schriftlichkeit’, pp. 59-60. Clearly, the differing archival practices common in Italy and southern Aquitaine must also be remembered here.
insist on the subjection of the free to church jurisdiction. It is therefore not surprising to find that these two charters were the only ones to have been composed outside the chancery by scribes working on behalf of the beneficiaries. Whether or not this kind of selective hearing, or perhaps negotiation of opt-outs, is indicative of the way legislation was generally understood in the ninth century is not easy to say. In any case, these features highlight the differences between early medieval legislation and modern statute law: sovereign pronouncements such as Acts of Parliament can be ignored or transgressed, but the documents in which they are recorded can hardly be openly altered in this way. Even more so than modern legislation, Carolingian royal law was, from beginning to end, fragile, negotiated and open to manipulation by powerful regional interests.

Content: Kingship and the free in the late ninth century

The content of the legal clauses themselves is also interesting. This is the only direct evidence for written legislative activity in the reign of Charles the Fat: so why these three clauses dealing with the free, and not others? The exact meaning of free status is difficult to establish: where, for instance, are the lines to be drawn between

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45 Tabacco, I liberi, pp. 82-5. There are clear precedents for the encroachment of powerful patrons on the free status of lesser landholders: Boretius and Krause (eds.), Capitularia, vol. 1, no. 73, cc. 6-9 (from 811); R. Balzaretti, ‘The Monastery of Sant’Ambrogio and Dispute Settlement in Early Medieval Milan’, in Early Medieval Europe 3 (1994), pp. 1-18

46 This was not in itself unusual in the later ninth century: see P. Kehr, Die Kanzlei Karls III. (Berlin, 1936).
aristocrats, rich freemen and ‘normal’ freemen?\textsuperscript{47} Here, however, we are less concerned with free status \textit{per se} than with its role in Italian political discourse. Tabacco has convincingly argued that the Ravenna constitutions reveal an attempt to maintain the notion of a direct link between the freemen of the Italian realm and its king which had been one of the cornerstones of royal power since the Lombard period.\textsuperscript{48} The charters deal with one of the fundamental obligations of the free, namely to attend royal courts (others being to work on the kingdom’s infrastructure and to serve in the army), and specifically address the concern that counts and ‘patrons’, presumably bishops, were interfering in the relationship between freemen and the emperor. The prevailing reading of this kind of interference is that it reveals the terminally compromised position of royal government in late ninth-century Italy as the free progressively came under the influence of rapacious lay or ecclesiastical aristocrats, rendering them all but useless as agents of the king.\textsuperscript{49} Some historians have argued that the Ravenna constitutions in particular reveal an advanced stage of


this process in which the links between a weakened royal court and increasingly
disordered local society were in the final stages of collapse.  

I would argue that our charters’ rhetoric should not be interpreted so literally. Their
narrative of unjust exaction and oppression is a commonplace which appears regularly
in charters and capitularies throughout the Carolingian period. Although a coherent
case can be made for the incorporation of the free into lordly clientèles during the
nineth century (and the constitutions do assume that the free are living under the
influence of ‘patroni’), the existence of very similar structures in eighth-century Italy
suggests that the phenomenon was far from novel. In reality, lesser freemen always
had something of an ambiguous position, inevitably coming under the influence of
locally-powerful nobles while at the same time retaining notional ties to royal service.
Paradoxically, the existence of clientèles may actually have regularised the ‘public’
duties of freemen, stabilising rather than undermining their value to rulers who by
necessity accessed local society through regional powerbrokers. Therefore, rather
than reading them as a simple index of the progressive weakening of the Carolingian
grip in Italy, we should seek a more specific context for the charters’ clauses.

50 For example, Delogu, ‘Vescovi, conti e sovrani nella crisi del regno Italico (ricerche sull’aristocrazia
Carolingia in Italia III)’, in Annali della scuola speciale per archivisti e bibliotecari dell’Università di

Rome’s Fall: Narrators and Sources of Early Medieval History (Toronto, 1998), pp. 153-70.

52 Bonacini, ‘Giustizia pubblica’, p. 34. Gasparri, ‘Strutture militari’, pp. 688-712 shows the basic
continuities of these structures from the Lombard to the Carolingian period.
The death of the heirless Louis II in 875 had inaugurated a protracted wrangle for power in Italy which lasted until the succession of Charles the Fat in 879. Charles the Bald of West Francia (875-7) and Karlmann of Bavaria (877-9) struggled for control of the realm, and in the process created deep divisions within the north Italian aristocracy.\(^{53}\) As largely absentee rulers, one important commodity for which these kings competed was the loyalty of the powerful northern episcopate. In attempting to secure their support, Charles the Bald ruled that Italian bishops were to become standing royal representatives (missi) in their own dioceses. Karlmann subsequently built on this provision by making comprehensive grants of jurisdiction to individual prelates, cementing their dominance in and around the cities of the kingdom.\(^{54}\) The tensions associated with the accession of a new king usually necessitated a renegotiation of the privileges enjoyed by members of the political community under his predecessors, and the disputes of the Italian kingdom since 875 meant that this was especially pertinent when Charles the Fat took over in late 879. The rights which had been conceded to the bishops by the new king’s predecessors were such that a clarification and restatement of royal claims to association with the freemen under episcopal influence was essential.

Moreover, the extension of bishops’ jurisdictional rights in the later 870s had clearly affected the status of their immunities. The Ravenna constitutions reveal that kings

\(^{53}\) Delogu, ‘Vescovi, conti e sovrani’, pp. 21-31; MacLean, “‘After his death’”, pp. 243-50.

like Charles the Fat still felt able to intervene in immunities like those enjoyed by the
Italian bishops. Even as he explicitly limited the authority of royal agents, Charles
simultaneously laid out limits on the immunity-holders. The *patroni* were expected to
escort their freemen to the (comital) *placitum*, so the royal reach was still meant to be
felt within the bishops’ jurisdictions: this was not a simple parcelling up and
devolving of ‘state’ powers. At the same time, the rights of the churches as immunity
holders were re-affirmed: there was something in this for the *patroni* as well.
Evidently kings, immunity-holders, and their respective agents did not always agree
on what the terms of an immunity actually were. All this suggests that the reigns of
Charles the Bald and Karlmann had opened up a kind of debate about the meaning of
Italian immunities and the authority of bishops within them, a debate which Charles
the Fat now sought to enter and resolve by means of the legal-political posturing
revealed in the Ravenna constitutions.\textsuperscript{55} The provisions of the Ravenna clauses on the
free are better understood as a response to these relatively short-term circumstances
than as a straightforward window onto an assumed structural malaise.\textsuperscript{56}

The effectiveness of this posturing depended on Charles’s ability to have the
constitutions accepted as a statement of, and claim to, royal legitimacy. The very act
of claiming a direct link to the *arimanni*, and advertising the ruler’s duty to protect
them, was a gesture which self-consciously sat within the traditions of Italian
kingship. The point is illustrated by a *placitum* of 832 in which some men defended

\textsuperscript{55} The whole subject of ninth-century immunities deserves re-evaluation, especially in the light of B.H.
Rosenwein, *Negotiating Space: Power, Restraint and Privileges of Immunity in Early Medieval Europe*
(Manchester, 1999).

\textsuperscript{56} Although Tabacco, *I liberi*, pp. 78-9 rightly stresses that bishops were not the only audience.
their claim to free status by saying that they wished to be judged in the court of the
king, not that of the local lord.\textsuperscript{57} They regarded access to royal justice as a badge of
their status, and Charles’s legislation on this very point re-asserted the notional
responsibilities of the Italian king towards the \textit{arimanni}.
\textsuperscript{58} The use of this Lombard
term for those holding free status (deriving originally from the word for a warrior)
was itself significant. It had essentially lain dormant during the ninth century and was
not utilised in any of the extant Carolingian capitularies: in fact, it virtually never
featured in Carolingian political discourse at any level. It did not resurface in 882 by
chance, but must have been carefully chosen by the drafters of the Ravenna template
to invoke the unmistakable overtones of Lombard tradition.\textsuperscript{59} Although it contains no
direct analogies to the terms of the 882 legal clauses, it is striking that many of the
references to the \textit{arimanni} in pre-Frankish Lombard law were likewise concerned to
define their judicial status.\textsuperscript{60} Charles and his advisers, whose active involvement in
the legal life of the kingdom we have already noted, must have known of these
connotations, especially as Carolingian law was treated in Italy as a continuation of
Lombard legislation. Regulating the position of the \textit{arimanni} was one of the things

\textsuperscript{57} R. Volpini, ‘Placiti del “regnum Italiae”’ (secc. IX-XI). Primi contributi per un nuovo censimento’, in


\textsuperscript{59} Tabacco, \textit{I liberi}, p. 80 attributes its adoption to episcopal influence. Cf. P. Toubert, ‘La liberté
personnelle au haut moyen age et le problème de \textit{arimanni}’, in \textit{Le Moyen Age} 73 (1967), pp. 127-44,

\textsuperscript{60} Gasparri, ‘La questione’, pp. 126-7. The phrase ‘regnum Romanorum et Langobardorum’ used in
the charters to describe the territories where they applied was not part of the normal contemporary
vocabulary of political geography, and hence also suggests a backwards-looking reference to legal
tradition.
that kings of Italy traditionally did, and one of the king’s aims was presumably to signal his sensitivity to the political traditions of his new kingdom. Projecting this kind of reassuring image was especially appropriate in early 882 as he was poised to take control of the east Frankish realms of his recently-deceased brother, which may have prompted fears of renewed absenteeism.

The charters’ third clause, that concerning the validation of claims to land, has a significance beyond what it tells us royal attitudes to the free in the early 880s. It has long been appreciated that in or around the year 880 the recording of Italian court hearings underwent a significant change, becoming much more codified.\(^{61}\) To what extent changes in record reflected changes in procedure is a matter which remains very much up for debate.\(^{62}\) However, it is clear that one of the new standard forms involved parties bringing ‘pre-emptive’ cases to court: they turned up not to pursue litigation but simply to read out a charter and have its validity confirmed in anticipation of potential future disputes. This, as Bougard has pointed out, corresponds closely with the provision made in our charters, and repeated by Guy in his capitulary, that claims to land had to be made on the basis of pre-validated diplomas.\(^{63}\) Caution is required here: the change in record may mask an underlying continuity of practice which Charles was simply acknowledging rather than reforming. Either way, this evidence shows that even texts whose primary purpose


\(^{63}\) Bougard, La Justice, pp. 312-13.
was probably political and ideological could still have a genuine relationship with actual legal structures and processes.\(^{64}\)

**Context: the Ravenna assembly and the image of the emperor**

Having considered the legislative character and content of the constitutions, we turn finally to the issue of why the king might have promulgated them in this way. One possible answer, as we have seen, is the specificity and perhaps urgency of the problems they addressed, which made the existence of a permanent record in church archives desirable. However, the promulgation of written law had connotations beyond the purely practical. In fact, practical considerations were often secondary: many of the standard reference points of early medieval legal practice were rooted, even in the Carolingian period, in customary non-written norms.\(^{65}\) In committing the Ravenna constitutions to writing, Charles and his advisers were clearly doing something quite unusual, given the comparative rarity of Italian capitularies since the 850s. To understand why, we must reconstruct the context of their promulgation. If, as we have seen, the content of the laws suggest an attempt on the king’s behalf to advertise his appropriation of the traditions of Italian kingship, we must also take into account the audience for which these claims were intended.

As our texts specify, the context was a major assembly held at Ravenna either side of 12 February 882 in the presence of Pope John VIII. The meeting had been called,


according to a contemporary papal letter, to enable discussion ‘of the progress of the holy church and the state of the empire.’ \(^{66}\) The date of the assembly was significant: Charles had been anointed emperor by John in Rome on 12 February 881, exactly one year previously. Early medieval kings were alert to the significance of anniversaries, whether they referred to important dates in their own reigns or feasts in the sacred calendar, and often manipulated them to gain political capital. \(^{67}\) The place also had important resonances: not only was Ravenna one of the capitals of the late Roman empire, replete with extant imperial architecture, but it had also served as the venue for Charles’s own coronation as king of Italy in January 880. \(^{68}\) We do not know what ceremonies were performed to commemorate the anniversary of Charles’s imperial consecration, although Carolingian rulers were fond of marking such occasions with public crown-wearings. \(^{69}\) In any case, the setting makes more intelligible an act of lawmaking such as that witnessed by our charters. Law-giving, and particularly the promulgation of written law, was a gesture closely associated in early medieval political thought with imperial status. In Einhard’s *Life of Charlemagne*, for example, the eponymous hero’s first act after being crowned emperor is to revise the laws of his


\(^{67}\) See in general M. Sierck, *Festtag und Politik. Studien zur Tagewahl karolingischer Herrscher* (Cologne, Weimar and Vienna, 1995).


Charles the Fat, Charlemagne’s great-grandson, knew Einhard’s work and sought to imitate his illustrious predecessor in various ways, such as by affixing imitative lead bulls to his imperial charters.

The venue, timing and scale of the Ravenna assembly therefore served to re-affirm Charles’s status as a legitimate emperor, and the issuing of the constitutions on that occasion underlined the point. An imperial gesture of this kind was made even more appropriate by two other items on the agenda at the Ravenna assembly in February 882. One was the papal confirmation of Charles’s recent choice of candidate to fill the see of Geneva. The control of this bishopric was an ongoing point of conflict in the rebellion of the usurper Boso of Vienne, whose uprising had threatened the very basis of Carolingian rule in 879-80. This revolt had a specific Italian dimension since Boso had once been Charles the Bald’s main representative south of the Alps, and his wife was Louis II’s daughter. Boso’s mother-in-law, the Empress Engelberga, had been taken into custody by Charles the Fat precisely to prevent him from activating his Italian connections, and the emperor did not feel safe enough to release her until autumn 882. Geneva itself, furthermore, lay in a strategically crucial region to whose

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71 Kehr, *Die Urkunden Karls III.*, pp. lxii-lxiv. On Charles the Fat and Charlemagne see MacLean, *Kingship and Politics*, pp. 199-229. In addition to this general resonance, in ninth-century Italy the issuing of capitularies may have been an act confined exclusively to emperors, as opposed to kings, though the evidence for such a distinction is not all that clear: see Bougard, *La justice*, pp. 51-2.

72 Caspar (ed.), *Registrum Johannes VIII.*, no. 292.
control the kings of Italy had a serious claim.\(^{73}\) This was, in other words, no ordinary episcopal succession.

The second and perhaps even more pressing issue was the presence in Ravenna of Guy II (the future king) and Guy III, dukes (\textit{duces}) of the central Italian duchies of Spoleto and Camerino. These powerful figures had long been a source of anxiety for the papacy, and in 882 they stood accused once again of seizing lands which rightfully belonged to Rome. There are signs that this time John VIII was especially upset, since according to a bargain struck with Charles the Bald in 876 the pope had a claim to control Spoleto and Camerino himself. The \textit{duces}, on the other hand, saw themselves as royal representatives in central Italy and Rome, a position which had been upheld, much to John’s chagrin, by King Karlmann in the period 877-9. Charles the Fat initially tried to steer a middle course in the dispute but soon took John’s side, making concessions to the pope in 880 and 881 to secure his imperial coronation.\(^{74}\) The emperor backed this up at the February 882 assembly in Ravenna by having the dukes publicly reinvest the pope with certain important lands which they were


accused of having usurped. Some of the most exalted and self-important expressions of early medieval rulership were made at times of political tension, such as during the trial or dispossession of powerful nobles. The fact that the Ravenna assembly in 882 was the venue for action against Boso and for the humiliation of the powerful Guys, as well as for a celebration of the anniversary of the emperor’s coronation, provides a good context for a display of righteous emperorship which included, as reflected in our charters, an imperial act of lawgiving.

If the Ravenna constitutions represent the residue of a ceremonially-expressed act of self-legitimation by the emperor, we must remember that this was a performance tailored to specific audiences. One was evidently made up of the powerful Italian bishops, whose political influence had been crucial in determining the course of the political strife of 875-9, and who had to be kept on-side. Yet the message was also important to get across to the secular aristocracy assembled to witness the dispossession of Guy II and Guy III. If our texts’ focus on the arimanni was meant to invoke traditions of Italian kingship which advertised an ideological bond between the king and the political community, their context shows how this was partly informed by an attempt to isolate the central Italian dukes from that community. Charles’s attempt to curb the power of the Guys, on whose co-operation he depended for political influence in central Italy, and whose power threatened that of the papacy, was audacious, risky, and by no means guaranteed to succeed. The emperor needed

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75 We only know of this from Caspar (ed.), *Registrum Johannes VIII.*, no. 304, John’s complaint that the lands had not been returned some weeks later.

to call upon all available resources so that the duces’ potential supporters would go home convinced. His legitimacy as king of Italy and his status as emperor had to be highlighted as clearly as possible.  

Conclusions

We are now in a position to summarise what these charters have to tell us about the nature of Carolingian legislation and about the historical context that produced them. To begin with the latter, it must be reiterated that we learn more about intentions than impact from texts like these. If the central Italian dukes and their followers were impressed by Charles’s rhetorical display of authority, the effect was temporary at best. Guy II rebelled again in 883, and this time Charles had to resort to military force to enforce his will on the recalcitrant dux. This highlights the provisional and unstable nature of Carolingian politics, and of the ideologies which underpinned the dynasty’s power. Royal authority had to be constantly renegotiated and restated,

77 The fact that the constitutions were explicitly intended to apply in Spoleto was a statement in itself. It is also possible to hypothesise that the papal-imperial pact was renewed by Charles at the same time, another highly imperial act that also served to limit the power of the Guys in central Italy. If so, it may be no coincidence that Otto I issued his version of this treaty, the magnificent purple charter known as the Ottonianum, exactly 80 years later on 13 February 962. See E.E. Stengel, ’Die Entwicklung des Kaiserprivilegs für die römische Kirche 817-962’, in Historische Zeitschrift 134 (1926), pp. 216-41; Hlawitschka, ‘Die Widonen’, pp. 60-80; T.F.X. Noble, The Republic of St. Peter. The Birth of the Papal State, 680-825 (Philadelphia, 1984), pp. 299-322; T. Sickel (ed.), Die Urkunden Konrad I., Heinrich I. und Otto I. (MGH Diplomata regum et imperatorum Germaniae i, Hanover, 1879-84), Otto I, no. 235 (= MGH Constitutiones no. 11); W. Georgi, ‘Ottonianum und Heiratsurkunde 962/972’, in A. von Euw and P. Schreiner (eds.), Kaiserin Theophanu. Begegnung des Ostens und Westens um die Wende des ersten Jahrtausends, 2 vols. (Cologne, 1991), vol. 2, pp. 135-60.

78 Kurze (ed.), Annales Fuldenses, s.a. 883, 884, pp. 100-1.
employing strategies which included the type of ideological statements made at Ravenna in 882. The circumstances which led to the production of our texts dissipated very quickly: Guy III of Spoleto and Pope John VIII, the principal protagonists of the dispute in which the emperor was trying to intervene, both died (the latter violently) at the end of 882, and subsequent popes were less inclined to push so hard for direct control of the central Italian duchies. As important as these documents may have been at the time of promulgation, the political agenda of which they were a part changed quickly and unpredictably. They provide a snapshot of political processes rather than (as most historians have wished to believe) penetrating insights into deep political structures. With this in mind it is hard to assess the impact of Charles’s attempts to claim the allegiance of the arimanni. It is nevertheless suggestive that he was able to assemble large north Italian armies from mid-882 onwards; and that, as we have seen, one of his pronouncements was connected in some way to procedural changes in the placita. If nothing else, we can at least conclude that the political culture of Carolingian Italy remained intact even as (with hindsight) the end of the empire approached.

As regards the questions of legal genre raised by our documents, we have already seen how the use of charter form may have reflected Charles’s attempt to ensure that his prescriptions were preserved in the archives of the major churches of Italy, the position of whose freemen he was anxious to regulate. Other, complementary, explanations are also available. For example, it has been argued that some legislative

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79 Despite his subsequent rebellion, Guy II seems to have been much less aggressive in defence of his claims than his namesake: Hlawitschka, ‘Die Widonen’.

80 Regino, Chronicon, ed. F. Kurze (MGH SRG, Hanover, 1890), s.a. 882, p. 119.
documents were given authenticating formulas in order to signal their particularly imperial character and exalted function: the surviving sample includes treaties with the Venetians and divisions of the realm, and the Ravenna constitutions might be read as part of this putative tradition. But as already mentioned the number of such texts is small, and so we may do better to interpret our legislative charters as products of a culture clash. Discounting the short reign of his incapacitated and largely absentee brother and predecessor Karlmann, Charles the Fat was the first east Frankish/German king of Italy to seriously engage with the politics of the transalpine realm. This circumstance led to a stark juxtaposition of styles of rule. The practice of politics in east Francia was not as infused with the use of the written word as it was elsewhere in the empire: although charters were used there extensively, no written capitularies survive from east of the Rhine. While we have indirect evidence that kings like Louis the German and Charles the Fat did make pronouncements which were evidently concerned with the same topics we find in written capitularies, the implication is that these were, as a rule, delivered orally. Viewed in this context, the Ravenna constitutions could be seen as the consequence of an encounter between east Frankish

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82 For example Kurze (ed.), Annales Fuldenses, s.a. 852, pp. 42-3; s.a. 882, p. 99. For commentary see T. Reuter, Germany in the Early Middle Ages c.800-1056 (London and New York, 1991), pp. 84-9; W. Hartmann, Ludwig der Deutsche (Darmstadt, 2002), pp. 151-2; E.J. Goldberg, Struggle for Empire: Kingship and Conflict under Louis the German, 817-876 (Ithaca, 2006), pp. 186-230. Some treaties involving east Frankish kings were, however, committed to writing.
styles of rulership and the literate royal legal tradition of Italy. In this respect it may be no coincidence that the Ravenna documents, whose content looks backwards to the main body of the Carolingian capitulary tradition, formally anticipate the concise charter-like ‘constitutions’ of the Saxon Ottonian rulers of late tenth- and eleventh-century Italy. These were generally snappy one-off legislative acts which emphasised the will of the ruler using rhetorical flourishes borrowed from the imperial lexicon of Late Antiquity, and as such struck a rather different note to the sprawlingly repetitive and consensus-soaked language of the capitularies.  

All that said, it may be preferable to downplay the apparently innovative aspects of our texts, and instead to see their peculiarities as ‘normal’; in other words as a confirmation of the great variety of form in Carolingian legislative documents. The Ravenna constitutions represent an improvised response to a particular political situation which highlights the malleable nature of Carolingian political traditions. Indeed, much of the documentation produced by Carolingian courts can be seen as a series of improvisations reflecting contingent political strategies, rather than as more or less imperfect versions of the ideal types reified by historians. This conclusion helps us to deconstruct the traditional generic classifications to some extent. Kings had at their disposal a spectrum of textual genres with which to engage the political and legal cultures of their realms. While it would be misleading to claim that modern categories have no value at all (after all charters and capitularies were contemporary

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textual categories), our texts do indicate that legal genres could and did merge into each other when circumstances dictated. Capitularies, and indeed charters, had permeable boundaries, sensitive to the environment in which they were produced. Our texts thus illustrate the fact that Carolingian capitularies were not simply legislation in the modern sense, issued in an attempt to add to a pre-existing impersonal body of law, but were often pièces d’occasion. As such, they demand to be studied not only as a genre but also as individual texts whose immediate significance we may miss unless we study them in their specific contexts.\footnote{Pössel, ‘Authors and Recipients’, pp. 254-5.}

The increasingly formulaic and repetitive nature of the surviving capitularies from late-ninth-century Italy suggests that their function was symbolic as well as pragmatic and that they were issued by new kings primarily as restatements of the moral basis of traditional kingship and guarantees of good government.\footnote{Bougard, \textit{La justice}, pp. 25-9; West, ‘Representations and Perceptions’, p. 230. The appearance in the same period of large compilations of earlier capitularies suggests that the bishops who owned them continued to buy into this political discourse: Bühler, ‘Capitularia relecta’; McKitterick, ‘Zur Herstellung’; Bougard, \textit{La justice}, pp. 30-43; Wormald, \textit{Making of English Law}, pp. 54-70.} They reflected a particular world-view and encoded a discourse of authority and hierarchy which was intended to shape the identity of the king and the political community under him.\footnote{On this theme see above all Pössel, ‘Authors and Recipients’.} If by this time the genre had a consistent aim it was as much to reinforce the moral political discourse that underpinned Carolingian power as to tinker with formal legal structures. The most important factor in the vanishing of the capitularies was therefore surely not institutional decay but the demise in 888 of the dynasty which had fostered this discourse. In a post-888 world where political legitimacy was a
commodity fought over between dynasties, rather than within one, the rules of the
game and the way that it was played decisively changed.87

Traditional reconstructions of Carolingian legal culture were pegged to an
interpretation of capitularies as managerial or administrative documents which
regulated the hierarchical structures of the Frankish state: it was the supposed collapse
of these structures at the end of the tenth century that created the conditions for the
‘Feudal Revolution’ and the emergence of a much more devolved and fluid legal
environment throughout western Europe in the eleventh.88 Yet the intense scrutiny to
which ninth-century judicial procedures have recently been subjected reveals not so
much a formal body of regulations controlled and adjusted by the king and his agents
as a world of ‘substantive legalism’ not dissimilar to that described by historians of
the eleventh century.89 This was a world in which the metaphorical statute book was

87 See eg. MacLean, ‘“After his death”’, pp. 256-9. It is interesting that the last capitularies of all were
issued by Guy and Lambert, the only post-888 royal claimants who could not boast Carolingian blood:
on their ancestry see E. Hlawitschka, ‘Waren die Kaiser Wido und Lambert Nachkommen Karls des

88 For historiographical discussion, see M. Innes, State and Society in the Early Middle Ages: the
Middle Rhine Valley 400-1000 (Cambridge, 2000), pp. 1-12; W.C. Brown and P. Górecki (eds.),
Conflict in Medieval Europe: Changing Perspectives on Society and Culture (Aldershot, 2003).

89 Innes, State and Society, p. 137; M. Costambeys, ‘Disputes and Courts in Lombard and Carolingian
Central Italy’, Early Medieval Europe 15 (2007), pp. 265-89; M. Innes, ‘Practices of Property in the
Carolingian Empire’, in J.R. Davies and M. McCormick (eds.), The Long Morning of Medieval
Europe: New Directions in Early Medieval Studies (Aldershot, 2008), pp. 247-66; drawing on (for
example) S.D. White, ‘Inheritances and Legal Arguments in Western France, 1050-1150’, Traditio 43
(1987), pp. 55-103; S.D. White, Custom, Kinship and Gifts to Saints: the Laudatio Parentum in
Western France, 1050-1150 (Chapel Hill, 1988), pp. 71-80.
less important than custom, coercion and compromise, and in which legal procedures and arguments were deeply embedded in wider social and political relationships. Our interpretation of the Ravenna constitutions illustrates how, just as much as litigants negotiating the *placita*, rulers issuing legislation also moved in this complex world of more-or-less-well-defined legalism. As we have seen, royal legislation did reflect genuine attempts to influence the social realities of the Carolingian Empire; but for kings and emperors of all statures, the promulgation of law was at least as important as a strategy designed to serve wider political and ideological purposes.\footnote{For encouragement and assistance of various kinds I am indebted to Marios Costambeys, Erich Frčena, John Hudson, Matthew Innes, Paul Kershaw, Christina Pössel, Julia Smith and (in particular) Geoff West}

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