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SOME CAROLINGIAN LAW-BOOKS AND THEIR FUNCTION

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LEGISLATION in the Carolingian period was recorded and preserved in a number of different kinds of collection, each of which served a different purpose. Many of the codices which contain collections of Carolingian secular and ecclesiastical legislation, often combined with doctrinal, didactic and catechetical texts, were intended from the outset to serve as handbooks of reference for the ministering clergy. These I have classified elsewhere as episcopal handbooks.¹ There are also the books designed purely for secular use such as BN lat.10758, a collection of historical and legal texts honouring the Carolingian house, or Berlin 161 (Phillipps 1736) which contained an incomplete text of the *Lex Salica* and extracts from some of the capitularies Charlemagne addressed to his *missi dominici*, and which appears to have been intended for one of the king's regional officials.² These collections of secular law often differ greatly. Some were intended as books of reference for a count or royal official, others for everyday use in administering justice, and others to teach law in the schools. Most contained in various combinations the secular capitularies of the Franks, the 'barbarian' codes, and Roman law. Concerning some of these law books a number of things need to be considered.

In order to understand how Carolingian legislation was implemented one must first see what contemporary collections of this legislation can tell us. This applies as much to the dissemination of Germanic and Roman laws as it does to the capitularies and conciliar decrees of the Church. It is not only the promulgation and content of the law which is important, but also its transmission and influence, preservation and application. It has become customary when speaking of the survival of Roman law and the practice of Roman, Germanic and Frankish royal law side by side, to look at any one manuscript and the text of the laws

¹ Rosamond McKitterick, *The Frankish Church and the Carolingian Reforms, 789-895* (London, 1977), pp. 25-44.

² *Ibid.*, pp. 31 and 43.

it contains, not by itself, but in relation to a family of manuscripts in which one manuscript simply represents a set of variant readings. But it should also concern the historian how each legal compilation was read, for whom it may have been written, and what particular function any one book may have served. A study of some of the Carolingian codices containing laws may also provide a better understanding of how the law was conceived of by the Franks and how it was preserved in the various regions of the Frankish kingdoms.

The small number of manuscripts I propose to discuss deal more extensively with a particular aspect of the preservation of Carolingian legislation which it was not possible to include in my study of the Carolingian reforms and the Frankish church. They can be roughly divided into two groups: those containing the *Lex Romana Visigothorum* or *Breviarium Alarici*, sometimes with other codes, usually the Germanic ones, included; and those containing the *Lex Salica* of the Franks and other texts.

The Carolingian period witnessed a great effort to record the law in writing, and the authority of the written law, in whatever form, greatly increased.³ In the eighth and ninth centuries the principle of the personality of the law prevailed; every man in the kingdom, which was by 814 made up of a number of different national groups, lived, at least in theory, according to the law peculiar to the particular national group to which he belonged. The Church on the other hand observed Roman law, and for some groups within the Frankish kingdoms, Roman law was their national law. As in every other sphere, the Carolingians made every effort to effect legal reforms. In 802 for example, Charlemagne provided for the revision and where possible the completion of existing texts of the laws and laws not recorded. He thus effectively upheld the legal validity of the Germanic codes.⁴

In court, both the defendant and the president of the court were expected to know under which national law they lived, and which would be applicable.⁵ Counts and lesser officials were exhorted to acquire a knowledge of the law. This in many cases would simply be

³ For example, *Capitulare missorum generale* 802, MGH, Capit., 1, p. 96. c.26. *Ut iudices secundum scriptam legem iuste iudicent, non secundum arbitrium suum.*

⁴ *Annales Laureshamenses an. 802*, MGH, SS, 1, p. 38. See too F. L. Ganshof (trans. B. and M. Lyon), *Frankish Institutions under Charlemagne* (Providence, 1968), chs. 1 and 3.

⁵ A good example is the familiar situation related by Adrevald in his *Miracula Sancti Benedicti*, MGH, SS, xv, 1, pp. 489–90, where a case had to be judged in the neighbouring region where the national law of the plaintiff was known. See too H. Brunner, *Deutsche Rechtsgeschichte*, 1 (Leipzig, 1906), p. 394, n. 6.

the law relevant for that official but a greater knowledge of the general principles of law as well as the actual precepts would also seem to have been deemed desirable. Both were certainly taught in the schools.⁶ It is to the fulfilment of the king's requirement to acquire a knowledge of both the theory and practice of law that many Carolingian law-books can be related.

The *Breviarium Alarici* was the law code used by those of Gallo-Roman origin and for the remnants of the Visigothic populations of Septimania, Aquitaine and the Spanish Marches. Certainly it was the most systematic and popular collection of Roman law, and it was probably accepted as the authoritative code and principal source of Roman law within the Frankish kingdoms.⁷

The two principal elements in the *Breviarium Alarici* are the legislative and the theoretical; it was a book to be referred to both for actual prescriptions and for general legal principles. It was published in 506 (other digests of Roman law were published at later stages elsewhere), and is a compendium of Roman law, containing a much abridged version of the Theodosian Code, the *Novellae* of Valentinian III, Majorian, Marcian, and Severus, the *Liber* of Gaius, the *Sententiae* of Paul, which mostly outlined the principles of jurisdiction and the law, constitutions from the Gregorian code, an extract from the Hermogenian Code, and a fragment from the *Responsa* of Papinian. The code thus contains texts which deal with the various functions and duties of the officials at the palace and in the provinces, with the laws of the king and with fiscal, civil and municipal administration. The *Breviarium Alarici* omitted most of the financial clauses in the Theodosian Code which did not meet Visigothic arrangements. A selection of the laws for the Christian Church concerning bishops, the clergy, Jews and religion itself from Book xvi of the Theodosian Code was retained. Each section of the laws has an accompanying *Interpretatio*.

There exist a great many Carolingian copies of the *Breviarium*, which suggest that it – as did Roman legal principles generally – exerted considerable influence. Yet real evidence in support of the *Breviarium* is certainly lacking so far.⁸ It is apparent from the occasional references

⁶ See P. Riché, 'Enseignement du droit en Gaule du vi^e au xi^e siècle', *Ius Romanum Medii Aevi*, pars 1.5.b.bb. (Milan, 1965).

⁷ J. Gaudemet, 'Le Bréviaire d'Alaric et les Épitomés', *Ius Romanum Medii Aevi*, pars 1.2.b.aa.β. (Milan, 1965). There is no proof that official recognition was ever accorded the *Breviarium* by Charlemagne or his successors.

⁸ J. Gaudemet, 'Survivances romaines dans le droit de la monarchie franque du vi^e au x^e siècles', *RHD*, xxiii (1955), pp. 149–206.

to use of Roman law that it gradually came to be considered more as a territorial than as a personal law, and moreover, that the Frankish laws made an attempt to adapt Roman law to new conditions. Yet, as Gaudemet has argued, although there are traces of Roman law in both the capitularies and conciliar decrees, as well as in canon law,⁹ the citation of Roman law seems more important in theory than in practice. The actual position of Roman law and its effectiveness as living law remained rather weak; its greatest strength lay in its attractiveness to the Franks as a learned law, the law of Rome, an attraction enhanced no doubt by the revival of the notion of the Roman Emperor in the West. In other words, Roman law retained its influence as a model for legislation and procedure, and as an inspiration in formulating legal principles. The Church's role in the maintenance of Roman usage is undoubtedly of the utmost importance. Not only did the Church observe Roman law; clerics were responsible for providing instruction in the law. They also copied and selected the texts. Some clerics, furthermore, were instructed in the law as well as in the *trivium* of the seven Liberal Arts, in arithmetic and sacred learning, in order to train them to assist the abbot, bishop, count or king in his administrative functions.¹⁰ Judging from the manuscripts containing digests of Roman law, moreover, most of which date from the reigns of Louis the Pious and Charles the Bald rather than earlier, it would seem that there was both a greater inspiration provided by and sought from Roman principles, as well as greater activity in recording the law than there had been hitherto.

One of the earlier codices however is BN lat.4403^A, written in the middle of the eighth century, probably at Corbie.¹¹ Later it was in the library of Claude du Puy whose name is on the flyleaf. Even if the manuscript is not certainly from Corbie it was certainly produced and used in a monastic milieu. It is far from being a *de luxe* edition of the *Breviarium Alarici*, in contrast to BN lat.4404 or BN lat.4418, both

⁹ See too J. Imbert, 'Le Droit romain dans les textes juridiques carolingiens', *Studi in onore Pietro de Francisci*, III (Milan, 1956), pp. 63-7. The Roman law which survived in the barbarian codes was for the most part the Roman law of the provinces.

¹⁰ In 805, Charlemagne decreed that everyone in office had to have a notary, *Capitulare missorum in Theodonis villa datum primum. Mere ecclesiasticum* c.4, MGH, Capit., I, p. 121, in the recension in BN lat.9654 and Vat.Pal.lat.582 only.

¹¹ For a full palaeographical description of this manuscript see E. A. Lowe, *Codices Latini Antiquiores* (Oxford, 1914) V, 556. There remains some uncertainty concerning its origins. The list of contents on the flyleaf was certainly written at Corbie, and it could be the *Lex Gothorum* or more likely the *Libri Novellarum Sex Theodosiani I Valentiniani I Martiani I* of the oldest catalogue, but this fails to prove that the manuscript was there from the start.

written in the ninth century. It is written on fairly coarse, stout parchment, is not large, and the text, although clear, is not set out with the extravagance encountered in a more costly edition. It has a thoroughly utilitarian look; has, in fact, every appearance of being a school-book. It lacks ornament apart from one decorated initial with a fish motif on fo.163v, and the use of red uncials for the titles of each section of the laws and the chapters within each section. Lowe did not note that the codex actually contains two separate manuscripts, the first of four quires ending on fo.28v, while the next quire begins a new sequence of quires containing the *Breviarium Alarici*. The quire mark itself is also different, being an uncial q with a cross stroke through the shaft followed by a Roman numeral rather than the capital Q used on the first four quires. Both parts of the codex, however, come from the same scriptorium, and both texts occur in other manuscripts together as parts of the same book.¹² It is possible therefore that although written separately, the two parts of BN lat.4403^A were bound together at a fairly early stage.

The first part of BN lat.4403^A contains the extracts concerning law from the *Etymologiae* of Isidore of Seville.¹³ In this copy it is entitled *Explanatio de legibus quem inter libros etomologiarum posuit (sic)*. The chapters, selected in this case from Books V, 1-27 and IX, 4-6 of the *Etymologiae*, provide a historical and theoretical exposition of the law, including Isidore's definitions concerning the authors of the law, divine and human law, that which distinguishes law from custom, natural, civil, military and public law, the function of the various officials who rule and govern by means of the law and the nature of the law itself. The ties of kinship are also fully explained. This *florilegium* is one of two forms the extracts take. The other is a succinct abridgment arranged in the question and answer form so popular in Carolingian didactic treatises.¹⁴ Moreover it was invariably accompanied by a legal text, usually the *Breviarium Alarici*, and also, as in the cases of BN lat.4626, 4628^A, 4631, 4730, 9653, 10758 and 18237, and Leiden 119, by texts of the Germanic laws, usually the *Lex Salica*. The appearance of either form of the text in a legal codex may well indicate that it was a school-book. Tardif suggested that the questionnaire form of this

¹² For example, manuscripts BN lat.4408, 4409, 4414, 4415, 9653 and 18237, Leiden 119, Vat.reg.lat. 1043 and Berne 263.

¹³ J. Tardif, 'Un Abrégé juridique des *Etymologiae* d'Isidore de Séville', *Mélanges Julien Havet* (Paris, 1885), pp. 659-81.

¹⁴ Printed by Tardif, *ibid.*, pp. 673-81.

didactic treatise was part of the judicial development of the northern part of the Frankish kingdoms, while the *florilegium* belonged to the south. BN lat. 4403^A is, however, one notable exception, and it may be more accurate simply to state that this abridged text of Isidore on the law in either form is part of the judicial development and school curriculum of the Frankish kingdoms generally.

In a school text such as BN lat. 4403^A, it is to be assumed that the *Breviarium Alarici* would be regarded as the principal source for basic legal principles which would augment the simple definitions provided in the Isidore *florilegium*, as well as providing a substantial basis for instruction in the law. Thus the second part of the codex comprises the *Breviarium Alarici*. In most copies of this the sections of *Interpretatio* are included in the text, headed *Intp* or *Interpretatio*. In this copy, however, these sections have been indicated as such after the completion of the text, in order to make the arrangement of the text clearer to the uninitiated. The annotations are a further interesting feature of the book. There are two, possibly three, near contemporary annotators; a dark-brown annotator who also wrote in black ink, and the 'green' annotator. The annotations are written in a Merovingian cursive similar to – albeit less formal than – that on fos. 179–84 and 126v–127r.

The brown and black annotators insert explanation, and expansions of abbreviations, into the text, insertions which sometimes seem to imply a knowledge at first hand of another text of these laws. In the second column on fo.29v, for example, above the fourth chapter entitled *De denuntiatione vel edictione scribti* is written *H(oc) e(st) ut causae pupillor(um) ibi discutiantur ubi eoru(m)*. On fo.30v, *De corionum* is glossed *id est de curialium*. These and other additions are all made to the table of contents, thus making it more informative. There is also some attempt on the part of the annotator to clarify the meaning and make it more comprehensible for the social context within which the law would be applied. The chapters relating to clerical affairs pass unnoted, but at the section from Majorian entitled *De abrogatis capitibus*, the annotator has written *iniustus legis divi Maioriani*. The annotator also noted sections which had been omitted from the table of contents. Throughout the text are many *signes de renvoi*, an indication of attentive reading.

The most interesting annotations are those of the 'green' annotator, first appearing on fo.51r.¹⁵ Most of these are of the summarising kind,

¹⁵ G. Haenel, *Lex Romana Visigothorum* (Leipzig, 1849), describes all the manuscripts containing the *Breviarium Alarici* and the digests of it.

either describing the contents or in the form of a summary heading for a section. The chapter beginning *Clericos quoque praecepit ut negotiationes nullatenus exercere praesumant* on fo.144r, for example, is glossed *Ut clericus negotiator non sit*. Many of the green notes are in the sections dealing with litigations and the actual administration of the law, but it is especially significant that most of the green notes appear only in the *Pauli Sententiae*, that section of the *Breviarium* most concerned with general legal principles and procedures and thus most suited for the teaching of the law. Some of the green notes are simply glosses, but as they are selective, they indicate which texts were found interesting and important. Thus the section on female inheritance, the position of women within the law, the responsibilities of judges, military prescriptions, wills and testaments are all noted. Sections such as those on public works or on bishops, churches and clerics are not glossed at all. The notes cease after fo.202v. This manuscript therefore could well have been used for teaching law to potential clerks and notaries – whether at a monastic school or a layman's court cannot be determined, though the former is the more likely.

BN lat.4404 on the other hand is a *de luxe* edition of the *Breviarium Alarici*, the older, Merovingian, recension of the *Lex Salica*, the B text of the *Leges Alemannorum* and the A text of the *Lex Ribuariorum*, which presumably belonged to a magnate or court official, probably in the south or south-east of the kingdom. It is a codex such as the Counts Eberhard of Friuli or Eccard of Mâcon might have possessed.¹⁶

A note by Étienne Baluze states that the manuscript came from *Gallia Narbonensis*, but there is no other clue concerning its origin. It is a large, handsome volume, measuring 340 mm × 233 mm, which has been savagely cropped by its binders so that the written page is close to the edge and some of the annotations as well as most of the running titles have been cut off. The text is written in a fine, clear, early ninth-century Caroline minuscule, whose clarity and grace accord ill with the primitive though charming figures with which it is illustrated. The illustrations are coloured brown, yellow and orange. On fo.1v, in the centre of the page, there is a full length portrait of Theodosius II, carrying his book of laws, flanked by Valentinian and two other anonymous legislators. A decorated border encloses these figures, and

¹⁶ G. Becker, *Catalogi Bibliothecarum Antiqui* (Bonn, 1885), p. 29; and M. Prou and A. Vidier, *Recueil des chartes de l'Abbaye de Saint-Benoît-sur-Loire*, 1 (Paris, 1907), p. 59. See too P. Riché, 'Les Bibliothèques de trois aristocrates laïques', *Le Moyen Age*, LXIX (1963), pp. 87–104.

some birds resembling peacocks and geese frolic in the margins. The opposite page, fo.2r, has portraits of other compilers of the law included in the volume, namely Severus, Gaius, Paul and Hermogenianus. Birds decorating the margins are only visible from the neck up, the rest having been cut away. The chapter titles are written inside elegant decorated arches reminiscent of the canon tables of Carolingian Gospel Books. Here they are formed from the tongues, sprouting either leaves or feathers, of two animal heads at the base of each side of the arch. The illustrations generally resemble those of the Sacramentary of Gellone.¹⁷

After Alaric's preface to the *Breviarium* comes a short paragraph, presumably written by the compiler and scribe who calls himself *peregrinus*, informing the reader of all that he has put in the volume. He has, he states, included the extracts from Theodosius, the *Pauli Sententiae* and the other authors which make up the *Breviarium*, and is quite exact concerning their content. After these he has copied the *Pactus legis salicae*, the Alemannian and Ripuarian codes, the edicts of Childebert and Chlothar and of the 'lord Emperor Charles'. (These are the supplementary decrees of the *Lex Salica*.) He then exhorts the book's user:

Hos lege tu lector felix feliciter omnes, et tu qui legis peregrini mei in bonis memento dilectissimae frater.

The text of the laws starts on fo.14v, with the chapter titles from the table of contents repeated as headings for each chapter. There are some corrections in a slightly later hand. The manuscript has also been marked with various *nota* symbols, presumably by the owner. All those portions of the *Interpretationes* to the laws which he found interesting or relevant have been marked with the word *signum* or *signum titulis* in a notarial cursive with a very tall long-s. Sometimes he used a small capital s, sometimes both, one at the beginning and one at the end of the paragraph to be noted. Most of these signs are set against the clauses in the *Institutes* and *Novellae* concerning the duties and functions of various government officials, and in particular those clauses concerning judges and the administration of justice. For example, the reader has marked the chapters *De officio praefectorum*, *De officio rectoris provinciae* on fos. 16r and 16v, as well as the following section which discusses *iudices* at

¹⁷ B. Teysseire, *Le Sacramentaire de Gellone et la figure humaine dans les manuscrits francs du VIII^e siècle* (Toulouse, 1959).

length. On fo.19r the sign marks the clauses concerning jurisdiction, the places where cases should be heard and the obligations of judges when administering justice. The section on the hearings held by judges in criminal cases and the responsibility of the judge to uphold the authority of the written law was also noted. Further on in the text the sign is set against the paragraphs dealing with litigation, invalid witnesses and the various complexities of inheritance. The marriage laws, fos.28-30, are thickly marked with the *signum*. The section *De Iudiciis* itself, and the paragraphs defining crimes, punishments and accusations, together with the question of Christians with Jewish slaves and the Jewish Sabbath are all noted.

The next portions of the text to engage the reader's attention were those to do with possessions and their disposal on the death of the owner, and those on ecclesiastical matters such as the chapters *Lex haec speciali ordine praecepit ut de clericis non exactores non allectus facere* and *De Testamentis clericorum*. Many sections of the *Pauli Sententiae* are glossed too, such as the clauses dealing with the *via publica*, judgment and the taking of an oath.

The Roman laws are the only part of the codex to have been marked with the *signum*. The Germanic laws and edicts are devoid of any *nota* symbols. It is possible therefore that the magnate who owned the book was required to administer justice in an area where the majority of the population lived according to Roman law, and where there were, if one can deduce anything from the attention paid to references to Jews, some Jews as well. The inclusion of the Germanic codes suggests that these were required as well, but that the owner's principle interest was in the actual conduct of his office. It should be noted in particular that while the decoration of the opening pages of the *Lex Salica* and *Lex Ribuaria* is comparatively modest, the first page of the *Leges Alemannorum* is illustrated with a full-page portrait of *Lodhanri rex et dux Alemannorum* together with three little figures representing the thirty-three bishops, thirty-three dukes, seventy-two counts and the rest of the great multitude, again with the exhortation *Hos lege tu lector*. The Alemannian duke is thus represented in much the same way as Theodosius. Such a dignity accorded one barbarian leader suggests that the owner himself could have been an Alemannian and that a number of his subjects also lived according to the Alemannian code. The sheer size, weight and dignity of the codex suggest that the owner heard cases in his own court. Here at least is a judge who

had every intention of being conscientious in his administration of justice.¹⁸

Another codex probably owned by a count or royal official is BN lat.4418. It is very large indeed, measuring 430 mm × 290 mm, possibly the size BN lat.4404 was before it was cropped. The manuscript has undergone extensive repairs, particularly to the edges of the pages. It was in de Thou's library before it came to the Royal library. Buchner dated it late ninth-century and suggested it came from the south of France.¹⁹ Its elegant and large format, the care taken over its ruling and the preparation of the parchment, and the dignity of the script with full use of uncials and square capitals as display scripts make it a fine volume. It contains the *Epitome Aegidii*, a shortened form of the *Breviarium*, as well as the *Epitome Iuliani*, a digest of the constitutions of Justinian. The latter text is written in long lines in contrast to the double columns in the rest of the book. Within this section a *nota* symbol, a large capital N with a very long curved right-hand shaft, occurs. It is set opposite chapters XIII, XIV, and XVI which concern the procedures by which one becomes a monk and the length of the novitiate, and what happens when someone who has entered a monastic community changes his mind and wishes to leave it. One may wonder at the train of thought of this annotator.

In the B text of the *Lex Ribuaria* there are some annotations on fos. 142v and 143r, but most of them have been cut away. What remains indicates that they are a note on sources, and in a much later hand. Corrections and glosses, possibly in a slightly later hand than the main text, have been made to the *Lex Salica* which follows. This is the corrected edition known as the *Karolina*.²⁰ In the section on pig-stealing, for example, a gloss is added to the effect that the *porcellum* is one of the house animals. Sometimes the glosses are of an even simpler nature. On fo.157v the phrase *si quis puellam quaedruchte* has *quaedruchte* underlined and glossed: *id est quam sponsatam duxerit*, and on fo.166v, *sigibarones* is glossed *dicuntur quasi senatores*.

On fo.191r there is a short tract very like the one in BN lat.4403^A

¹⁸ Unlike some of the judges described by Theodulph of Orleans in his *Versus contra Iudices*, MGH, Poet.lat.aevi.karol., I, pp. 493–517. See also his *Comparatio legis antiquae et modernae*, *ibid.*, pp. 517–20; and H. Liebeschütz, 'Theodulph of Orleans and the problem of the Carolingian Renaissance', in D. J. Gordon, ed., *Fritz Saxl 1890–1948* (London, 1957), pp. 77–93.

¹⁹ F. Beyerle and R. Buchner, *Lex Ribuaria*, MGH, LL, nat.germ., III, II, p. 36.

²⁰ K. A. Eckhardt, *Pactus Legis Salicae*, MGH, LL, nat.germ., IV, I, esp. pp. xviii–xxvi.

entitled *De instrumentis legalibus*, containing some extracts from Isidore, and which includes the following definition:

Lex est emula divinitatis antistitis religionis fons disciplinarum artifex iuris boni mores inveniens atque componens gubernaculum civitatis iustitiae nuntia magistra vitae magis anima totius corporis populari.

BN lat.4417 may also have belonged to a royal official or a *missus dominicus*. It is a very fine codex, measuring 221 mm × 140 mm, written in an upright well-spaced minuscule probably of the last decades of the ninth century, and with some illuminated initials. It was given to Colbert in 1681.²¹ Like the other codices, this one has been read assiduously and annotated in the margins, the most obvious sign being a distinctive *nota* symbol of a majuscule N with O and T superimposed on the right-hand shaft. This sign answers a group of three dots in the text. The first part of the book contains again the *Epitome Aegidii*, and the *nota* sign first appears against a clause dealing with the rights of inheritance for daughters. Another comes in the section on administration, and negligence on the part of the *tutor*. The section on legitimate heirs has a great many *nota* symbols, particularly against those sections, curiously enough, which deal with the position of women.

A collection of the Germanic laws follows, including the B text of the *Lex Ribuaria*, the B text of the *Leges Alemannorum*²² and the *emendata* text of the *Leges Baiuvariorum*. Frankish royal capitularies, written in a different hand in a new section, are appended. These include a Group I text of the capitulary collection of Ansegisus up to Book IV, 10,²³ and additional capitularies such as *Addamenta* to the *Lex Salica* and some of the decrees promulgated at Worms in 829. The prominence of the Riparian laws in this codex and the capitularies from Worms suggest that the manuscript was written for a count or royal official in Austrasia, who had a lively interest in the law insofar as it actually concerned him.

The next group of manuscripts to be discussed are those containing the *Lex Salica* and other Germanic codes, sometimes with some Roman law. The Germanic or barbarian laws are folk codes and personal codes given the force of law by the king. The king would often add pro-

²¹ For a short description of the manuscript's contents see B. Krusch, *Die Lex Baiuvariorum* (Berlin, 1924), p. 102.

²² K. Lehmann and K. A. Eckhardt, *Leges Alemannorum*, MGH, LL, nat.germ., V, I, pp. 55–157.

²³ K. Christ, 'Die Schlossbibliothek von Nikolsburg und die Überlieferung der Kapitulariensammlung des Ansegis', *Deutsches Archiv*, I (1937), pp. 281–323.

visions to them; there are, for example, capitularies of Charlemagne and Louis the Pious which add clauses to the *Lex Salica*. They are pre-eminently penal codes with some clauses of civil and property law and information on procedure. It is probably this limitation in their application which led to their inclusion alongside both royal capitularies and Roman law in the codices. It was the *Lex Salica* which acquired a rather greater authority than the other codes, and a revised version of seventy chapters, the *Lex Salica Karolina*, was produced under Charlemagne after 800. Capitularies containing additions to the *Lex Salica* after Clovis, such as the *Pactum pro tenore pacis* of Childebert I and Chlothar I (511–58) and the *Edictum Chilperici* (561–84), were gradually incorporated into the main text.

BN nouv.acq.lat.204 is one of many codices containing the *Lex Salica Karolina*. It is a defective codex, large portions of the text having been extracted. Between fos.22v and 23r for example, four folios have been cut out. It measures 247 mm × 184 mm and contains, now, 95 folios. Its script is a well-written Caroline minuscule which could be of the middle decades of the ninth century, though some have wished to date it rather later. Appended to the *Lex Salica* are a number of the capitularies of Louis the Pious, followed by the B text of the *Leges Alemannorum*, the *emendata* text of the *Lex Baiuvariorum*, the *Lex Burgundionum*, a charter of Louis the Pious dated 822 and a formula for dues to be paid to a monastery from a Tours *formulae* collection. The last text is a portion of the *Epitome Aegidii* which has been associated with Tours.²⁴ This manuscript would appear then to be a compendium of the national laws of the *Regnum Francorum* written in the region of Tours.

BN lat.4628 is a fairly small late ninth-century book (220 mm × 160 mm); its pages are worn and the writing faded as if the book had been subject to constant use. There is some decoration, including a roughly ornamented initial on fo.1r. It contains the *Lex Salica Karolina*, the capitulary adding to the *Lex Salica* promulgated under Louis the Pious, and a capitulary addressed to the imperial *missi*, the first clause of which enjoins the *missi* to administer justice. On fo.49v are two rather drastic-sounding cures for epilepsy scrawled in a later hand, followed on fo.50r by the B texts of the *Lex Ribuaria* and the *Leges Alemannorum*. On fo.66v is an extraordinary drawing, possibly added later, of two standing figures with strange wild features and remarkable

²⁴ See Krusch, *Die Lex Baiuvariorum*, pp. 105–6.

head-dresses. One stands in the background, while the other expostulates to a suave, elegantly dressed count or *missus*, who sits calmly listening to him. This handbook of the national laws may once have belonged to a royal official in the northern parts of the kingdom.

Another small legal handbook is BN lat.4629, which includes a number of non-legal texts which suggest it was a school book. As well as the E text of the *Lex Salica* and the Edict of Childebert, there is a detailed explanation on fo.15r of the various additions made to the Salic law, a selection of the Carolingian additions to this law, and the A text of the *Lex Ribuaria*. On fo.15v there is a short treatise in the question and answer form entitled *Incipit questio de trinitate* and beginning *Quomodo credis dominum. Rēp. Trinum et unum. Int. Quomodo trinum et quomodo unum. R̄s. Trinum in personis et unum in deitate*. After it is a treatise on virtue beginning *Quid est initio virtutis. R. Non facere malum*. These same two pietistic and didactic texts occur in Berlin 161 (Phillipps 1736) referred to above, in which they form part of a royal official's legal handbook. At the end of the manuscript, however, but in a slightly later hand, is a short treatise on orthography. It is possible therefore that the manuscript was indeed originally in the possession of a lay royal official, but that additions were made to it when it was later used as a school text. This impression is reinforced by the nature of the additions themselves; these include a letter telling the recipient that this little manual has been prepared for his use so that he may attain a measure of goodness in his daily secular life, an epitaph in verse for an abbot, and a much later epigram on *caritas*.

BN lat.4788 is another book which possibly belonged to a count responsible for the administration of justice in an area where the *Lex Salica* was observed. It is so worn and mutilated as to be almost illegible, the pages full of holes and very thin. Enough writing remains to indicate that this little book, measuring only 140 mm × 120 mm is a pocket copy of the *Lex Salica*, with the possible addition of the *Capitula quae in legem Salicam mittenda sunt (sic)*.

A manuscript once in the possession of Antoine Loisel, on the other hand, BN lat.18237 (*olim* Notre Dame 252), appears to have been intended as a school book from the start. It is a small quarto of 144 folios, written in a careful Caroline minuscule of the second half of the ninth century, with titles in red rustic capitals. The parchment is fairly stout. It contains some annotations but these are of the eighteenth or nineteenth century. Large portions of the text are missing and paper

leaves have been inserted to supply what is missing (though this they fall far short of doing). The manuscript contains the C text of the *Lex Salica*, a text closely related to the Merovingian recension and an incomplete text of the capitulary collection of Ansegisus starting at the chapter headed *De Iudicibus*. Most of these are the capitularies concerning ecclesiastical matters. Following the excerpts from Isidore of Seville on the law similar to those described in BN lat.4403^A, is a short *florilegium* on kinship, mostly from Isidore, and illustrated on fo.114v by a detailed diagram showing the familial relations.²⁵ This combination of texts, and the general appearance of the book, make it likely that it was indeed a school book, designed to teach general legal principles and the laws of the Frankish kings. The *Leges Alemannorum* at the end of the volume, fos.121r-126v, a fragment only, is from another manuscript. It was a fine one, written in large clear minuscule with a great many decorated initials.

The manuscripts here selected for discussion represent only a small number of the legal codices and the number of variant texts extant. Yet they are what was available to the Franks. However imperfect the texts and simplified the legal treatises and basic principles, these books were the only form in which the Carolingians could read their law, learn from it, teach with it, and resort to it for guidance in administration and passing judgment. Like the collections of capitularies and conciliar decrees which I have discussed elsewhere,²⁶ there is rarely an official code of either the Germanic or the Roman laws available in the Carolingian period. A reasonably successful attempt to produce such an official code can be seen in the revision of the *Lex Salica*; customary law was ultimately of greater influence and significance than Roman law. Generally, however, it is apparent that local needs determined what proportion of the laws available would be used, while the codification of these laws depended in great measure on personal initiative, on the acceptance of the authority of the written word promoted by Charlemagne, and on a knowledge of the law. In this respect the schools were crucially important. There both legal principles and familiarity with the texts were taught. With the gradual increase in knowledge and development of the law can be associated the treatises on government and kinship. The number of both legal codices and of

²⁵ A reproduction of this diagram is to be found in Liber xi, 28 of W. M. Lindsay, ed., *Isidori Hispalensis Episcopi Etymologiarum sive Originum* (Oxford, 1911).

²⁶ Rosamond McKitterick, *Frankish Church*, ch. 1.

Fürstenspiegel increases rapidly during the reign of Louis the Pious, and more notably, during that of Charles the Bald. BN nouv.acq.lat.1632, a mid-ninth-century codex possibly from Fleury, which contains two short treatises entitled *Quid sit proprie ministerium regis* and *Capitula diversarum sententiarum pro negociis rei publice consulendis*, is just one illustration of the absorbing interest in the theory of the law in the Carolingian period, and in particular, how ruling and government were seen to be, quite unequivocally, only feasible and honourable in terms of the law.

Because of the smallness of the group described here, it has not been possible to discuss the extent or type of legal book production in any one area at a given time. As knowledge of the date and provenance of the Carolingian law-books grows and is combined with the detailed information concerning each recension and type of text of all the laws, Germanic and Roman, it will be possible to have a clearer and more precise understanding of the law, its use, production and transmission in the Frankish kingdom in the eighth and ninth centuries.