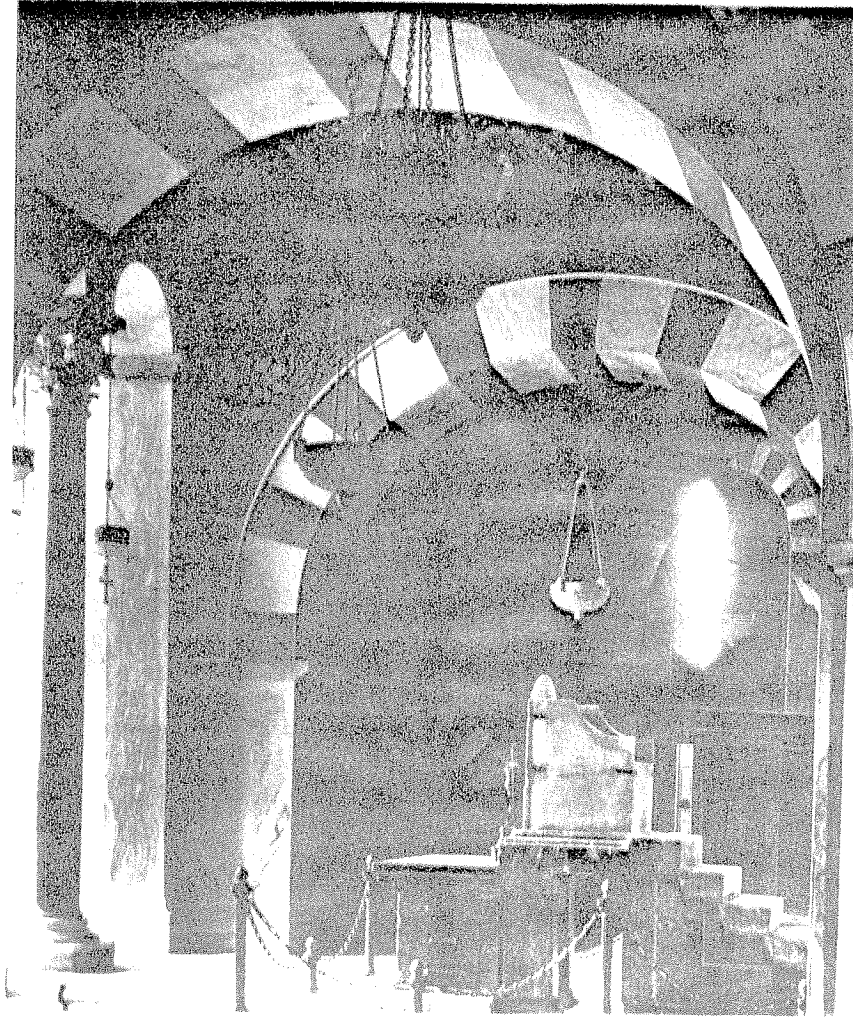


α 144264



*Charlemagne's throne in the gallery of the octagon of the palace chapel at Aachen. The throne, which is approached by a staircase with six steps consists of four stone pillars supporting the *mensa*, i.e. the base on which the chair is raised. The chair is made of oak planks encased in slabs of white marble. The side pieces are curved to provide elbow rests. The back, rounded at the top, consists only of an upper part; the space below is filled by an upright wooden plank.*

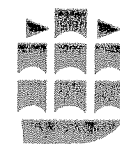
Installed in the seclusion of the royal (later imperial) logia, the throne faced the main altar, which was visible through the centre opening of a three-part bay formed by two marble pilasters and two marble columns. Charlemagne could thus follow the Mass and liturgical offices. For an even clearer view, the bronze grilles, made at Aachen, which barred the lower part of the bay could be opened at the centre. The throne, like the chapel as a whole, dates from the late eighth or early ninth century.

F. L. Ganshof

# The Carolingians and the Frankish Monarchy

Studies in  
Carolingian History

*Translated by Janet Sondheimer*



Longman

## VI. The institutional framework of the Frankish monarchy: a survey of its general characteristics\*

THE FOLLOWING account is necessarily very general in character. It will therefore be impossible to justify every statement by direct references to the sources, as is my usual practice when writing of subjects more narrowly defined. Sticking to my normal scholarly habits would have thrown this contribution to the present discussion out of all proportion to the rest. As regards the general works covering the period, my plan as a rule is to refer to them by title only once. Where a more specialised work deals more fully than the general surveys with some particular aspect of the subject, reference will be made to it in the notes. Direct reference to a source in the notes is reserved for the rare cases in which no such work exists, and is given only by way of example. In some cases the absence of any reference is accounted for by the absence of any work I consider satisfactory. This said, I can affirm that my account is in fact based on a direct study of the sources.

Next, it is important to explain exactly what this article sets out to do. It does not set out to provide a systematic survey of the institutions of the Frankish monarchy.<sup>1</sup> My sole purpose is to highlight some of the essential characteristics of the system to which those institutions belonged.

The time span covered is that covered by the Merovingian and Carolingian periods, that is to say the sixth, seventh, eighth and ninth centuries. The geographical area embraces the territory ruled by the Frankish monarchy: in Merovingian times the *Regnum Francorum* comprised nearly the whole of Gaul and part of western, central and southern Germany; under the Carolingians this territory was enlarged by the addition of two further regions of Gaul, Septimania and Brittany (up to a point), the northeast and north of Germany (basically Frisia and Saxony), parts of the Middle Danube region, and the northeast of the Iberian peninsula. Italy is omitted: even after its enforced submission to Charlemagne, the

### *The institutional framework of the Frankish monarchy*

Lombard kingdom retained its own system of institutions, despite some heavy Frankish penetration.

We shall have to deal not only with the Frankish monarchy as a unitary state but also with the kingdoms into which, at certain points in its history, it was divided. With one or two exceptions we shall not go beyond the year 888: as things turned out, the split in the *Regnum Francorum* which occurred at that date was its final fragmentation.

Looking as we are for the essential features of the system of institutions under the Frankish monarchy, the first point to be stressed is that the elements composing the system were of diverse origin. While some institutions were Roman, others were Germanic, or based on Germanic ideas and traditions. The Christian Church had also had a part to play in the formation and transformation of the system.

These different elements are discernible to the historian, above all the legal historian. But it must be said that no one of these elements made an imprint on the Frankish monarchy strong enough to justify the claim that its institutions were essentially Roman or essentially Germanic.<sup>2</sup> The Frankish monarchy and its institutions represent a new departure; to put it more bluntly still, an original creation.<sup>3</sup> Moreover, Frankish institutions changed with the times. In the course of the four centuries under review, most of them acquired some fresh characteristics, and in some cases the transformation went deep.

We must also note that the institutions as they functioned in the central parts of the *Regnum Francorum*, particularly between the Loire and the Rhine, sometimes differed quite markedly from those in more outlying regions: at the periphery we may find institutions peculiar to the inhabitants of the region, or institutions from the central portions adapted to their needs. Until well into the eighth century, the institutions found in Provence and Rhaetia, and east of the Rhine in Bavaria and Alamannia, are in many respects noticeably different from those in operation between the Loire and the Rhine; and some of these differences persisted. The same is true of Frisia in the eighth century and of Saxony in the ninth.<sup>4</sup>

The key institution of the *Regnum Francorum* is the kingship.<sup>5</sup> It had been forged by Clovis, and by his sons and grandsons, in circumstances of which we know little. The Merovingian king is very different from the old Germanic king from whom he descended. His power was as great—with something over to spare—as that of his predecessor (except when acting as war leader) was restricted. Merovingian royal power was absolute throughout the territory ruled by the monarchy. Its inhabitants, whatever their origin, were unreservedly subject to his authority, and in precisely the same way: it was, in fact, a characteristic of the *Regnum Francorum* that it recognised no *Herrenvolk*. Those who were Frankish

by origin—or took themselves to be such—were in no way privileged above those who were, or claimed to be, Romans, Alamannians, Bavarians, Burgundians, Goths, and so forth.<sup>6</sup>

The king was a despot, whose arbitrary rule knew no restraints save those imposed by civil war and assassination. To these curbs must be added, as consequence of Clovis's conversion, a superstitious fear of God and the saints, rather than the restraint of any Christian religious conscience worthy of the name. The assemblies when they met were in effect gatherings of the great men of the realm, which took place when the army assembled, or at least at the time of the annual summons to the host in March; they were purely consultative in character.<sup>7</sup> There were naturally times when the aristocracy succeeded in imposing its will on the king: occasional episodes of this kind occur from the beginning of the seventh century, and by its middle years have become quite commonplace.

Under the Carolingians, the royal authority was still absolute. There were no limitations on the king's *bannum*, his power to command or prohibit, which was backed up by the heavy sanction of a fine of sixty *solidi*. No matter the field, the king's power was unlimited. The great men of the realm, ecclesiastical and lay, were brought together in diets or general assemblies, or in assemblies of more restricted composition, which met when the army gathered in May (as it did from 756) or on some other occasion; but the character of these assemblies was even more purely consultative than in the past. On the other hand, the restraint of religion operated with greater, and more truly Christian, effect on members of a dynasty who from 751 acceded to power after anointing with the Holy Chrism, administered by a bishop. During the second half of the reign of Louis the Pious (i.e. from 830), the actions of the lay and ecclesiastical aristocracy imposed strong limits on royal absolutism, to their own profit. This movement gathered strength. In *Francia Occidentalis* after 843 the royal authority can be said to have become conditional in character, the aristocracy being the gainer.<sup>8</sup> In *Francia Orientalis* matters had not gone so far, but there was a growing limitation of the royal power in favour of various ethnic groups (Saxons, Bavarians, Alamannians etc.), or to be more precise, their leading elements.<sup>9</sup>

Under the Merovingians, the royal power was dynastic, hereditary and personal. By this I mean that it belonged in full to the dynasty, and was effectively exercised by the member of it who occupied the throne. It could in no way be said that the king was possessor of a power which in the last resort belonged to an abstraction, that is the state, the *res publica*. Proprietor of all the soil in the kingdom he was not, but the kingdom as such was considered his property. He treated it like a private patrimony; we might say the royal power had undergone a kind of 'privatisation'. Hence the rule, rooted in the contemporary sense of legality, that

at the death of the king the *regnum* had to be divided among his sons, as would happen with a private landed property. As we know, these partitions led to civil wars and gave birth, before the sixth century was out, to Frankish 'part kingdoms' (the German expression *Teilreiche* comes nearest to the sense), known as Austrasia, Neustria, and Burgundy; curiously enough, the *Teilreiche* themselves were not subdivided. The idea that the royal power belonged to the dynasty made it seem natural to reconstitute the unitary *Regnum Francorum* in favour of one of its members whenever, by chance or design, kings of the *Teilreiche* disappeared from the scene.<sup>10</sup>

Under the Carolingians, heredity, the patrimonial conception of power, and partitioning continued to be the rule. In 800 Charlemagne acquired the imperial dignity, which under his son and successor almost brought about a transformation. Indeed, during the first part of his reign (down to about 829), Louis the Pious and his current advisers attached little or no value to the kingship; all that counted for them was the empire. And at that date the accepted idea of imperial power, among cultivated clerical circles at least, was of a universal authority, having as its essential object the promotion of the Christian faith and the defence of the Church. By reason of this religious bias, the conception of an abstract supreme authority made its reappearance: the *res publica*, the political framework of the *ecclesia*. And since the Church was one, the empire too should be one and undivided: therefore, no more partitions. These ideas inspired the *Ordinatio Imperii* of 817.<sup>11</sup> The regime of imperial unity, and of the succession of a single heir to the imperial throne which it inaugurated, came to an end, as we know, in 829; the subsequent return to the patrimonial conception of power, and to the practice of partitioning, led to disastrous results, with which we are familiar.<sup>12</sup> Among the factors which contributed most forcefully to the failure of the *Ordinatio* regime was the fact that, apart from a handful of cultivated individuals, most of them clerics, the men of the time were in no position to grasp abstract ideas; the conception of patrimonial power, on the other hand, was readily accessible and fitted in with tradition, this latter trait being of particular importance at a time when the binding character of a legal rule rested chiefly on its antiquity.

The Frankish monarchy never knew its power as anything but weak: this generalisation holds good as much for the undivided monarchy as for the *Teilreiche*. That is not to say there were no ups and downs. The second half of the seventh century and the early part of the eighth was a time of extreme weakness. Indeed, entire regions slipped almost completely from the grasp of royal authority; those I have in mind were outlying regions, inhabited by Germanic populations of strongly marked individuality or by Romanic populations who were aware that the civilisation they had inherited was superior to that prevailing in the centre and

north of the *Regnum*: at this period, the 'national' duchies of Alamannia and Bavaria, and the duchy of Aquitaine, were in practice independent. Charlemagne's reign, at any rate until we reach the ninth century,<sup>13</sup> and the early part of the reign of Louis the Pious, were periods of relative strength.

It must be stressed that even during periods of relative strength, the Frankish monarchy never had organs powerful enough to ensure that the decisions of royal authority were fully implemented throughout the length and breadth of the realm. The monarchy was not even in a position to maintain the public peace at a satisfactory level, that is to provide normally effective protection for persons and property.

The monarchy lacked the necessary administrative personnel. The 'Palace' (*Palatium*), the seat of royal power, was staffed chiefly by court dignitaries, i.e. the heads of the household: the 'mayor of the palace' (*maior domus*), whose position at court ceased under the Carolingians; the steward (*dapifer*), the butler (*buticularius*), the chamberlain (*camerarius*) and the constable (*comes stabuli*), to name the most important.

The 'count of the palace' (*comes palatii*) was associated with the king in the dispensing of justice, and because of his functions no doubt considered himself a cut above the rest. But in matters of government none of these dignitaries amounted to much more than advisers and auxiliaries. There was nothing in the itinerant *Palatium* which could justify the description 'central administration', not even the offices where the writing work was done. Under the Merovingians these offices were supervised by 'referendaries' (*referendarius*), a legacy from Roman tradition, and staffed by laymen; under the Carolingians the work was done by clerics from the 'chapel' (*capella*), that is to say clergy employed in the Palace, and supervised by 'chancellors' (*cancellarius*), who were themselves clerics. Their essential function was to draft diplomas, grants of favour or privilege, and they had little or nothing to do with administrative correspondence.<sup>14</sup>

The chief local agent of public power was the count (*comes, grafio*). Above him was the duke, *dux*, who in Merovingian times exercised a higher command (first and foremost a military command) over a stretch of territory embracing several 'counties'. At the beginning of the Carolingian period this intermediate power, which often acted as a check on the central authority, disappears. The occasional *dux* met with in Carolingian sources was actually a count, invested as a temporary expedient with a superior military command over some wide area thought to be in danger of attack. There were also counts who were invested with permanent command of a frontier region, that is a 'march', (*marca, limes*), which might include conquered territory; these 'marcher counts' are sometimes described as *praefectus limitis* or by some similar title, and later on as *marchio*, (French: *marquis*).<sup>15</sup> Under the Carolingians the position of the count seems to have been higher than in the past.

Charged in particular with the maintenance of public peace ('police' functions in the broad sense), the administration of justice and the conduct of military affairs, the count received his remuneration only in an indirect form: he was entitled to a portion of the fines and other royal revenues, and he had a landed endowment (*res de comitatu*), sometimes supplemented in the eighth and ninth centuries by lay abbacies (*abbatia*). Very often, under the Carolingians almost invariably, the count belonged to some great aristocratic family, at this period preferably one with roots in Austrasia.<sup>16</sup> When the king's power was weak, he found it difficult to transfer or dismiss a count; during the ninth century it became increasingly common for son to succeed father in this office, especially in *Francia Occidentalis*. The count was thus an agent of power who, unless the ruler was strong, was more likely to behave like a local potentate than an official, an agent whose subordination to the central power could not be taken for granted. In this they resemble some of the pashas found in Arab or Turkish states.

In any case, counts were always rather thin on the ground. Under the Carolingians, when some of the older large territorial units had been split up, I estimate their number at between 250 and 350. Furthermore, in the ninth century it was not uncommon for a count to be placed in charge of two or even three counties.<sup>17</sup> The head of the county was frequently absent, called away to the Palace, summoned to the army, sent on a mission; when that happened authority had to be left in the hands of subordinate agents, the *vicarius* (French: *vignier*), *centenarius* (French: *centenier*), *scultetus* (*écoutète*) and so on; no county had more than a few of these, and even when we add the *vicecomes* (French: *vicomte*), the deputy count for each county introduced into the western parts of the *Regnum* under the Carolingians, the total is not impressive. Again, the staff at the disposal of the count and the other agents of public power—a secretary (*notarius, cancellarius, brebitarius*), a handful of servants (their *imiores*), and in the Carolingian period three or four vassals—was absurdly inadequate: with this equipment, the count was more likely to oppress the people he was supposed to administer than to provide them with the needful security.

The manner of dispensing justice was in any case very imperfect. During the Merovingian period the Frankish judicial organisation became standard throughout Gaul. Everyone had the right to be judged according to his 'national' law: Frankish law if he was a Frank, Roman if he was a Roman, Burgundian if he was a Burgundian, and so on; in practice, furthermore, this regime of 'personal laws' must have undergone considerable attenuation. The ordinary tribunal was the count's court or *mallus*; the local agent of public power—the count or one of his subordinates—presided, but judgment was left to non-permanent assessors (*rachinburgii*), who were supposed to know the law. There were analogous institutions in the various purely Germanic regions on the right bank of

the Rhine. Charlemagne succeeded in making the system a little more workable by introducing permanent assessors (*scabini*) in place of the *rachimburgii*; under him the Frankish system was extended to the right bank of the Rhine. At the Palace, justice was dispensed by the king or emperor, assisted by a single permanent assessor, the count of the palace (*comes palatii*), and by members of his entourage, chosen at will. All in all, a not very effective judicial system, but perhaps the only one possible, having regard to the social and governmental structure and the very modest intellectual attainments of the people.<sup>18</sup> In any case, a large number of disputes—no doubt the majority—were settled outside the courts, through private vengeance (*faida*) or direct agreement between the parties.

The very imperfect protection of subjective rights obtainable under a deficient judicial organisation was still further impaired by an extremely primitive system of proofs. To make matters worse, there was a high degree of uncertainty in men's grasp of whatever law was applicable. The justiciaries to whom Roman law applied could no doubt profit from the existence of extensive collections containing all that was essential to it. But for those who lived under Frankish or some other Germanic law, the court was in most cases forced to apply rules known only through oral tradition: the *leges*, attempts at putting these laws into writing, were not complete and in fact contained only a very small part of what we should describe as the private law. This is true of the Frankish laws (*Lex Salica*, *Lex Ribuaria*), as also of the laws of the Alammanians, Bavarians, Saxons, and Thuringians (*Lex Alamannorum*, *Lex Bajuvariorum*, *Lex Saxonum*, *Lex Angliorum et Vuerinorum, hoc est Thuringorum*), and so on. It must be said that the edicts (*edictum*, *praeceptum*, *praeceptio*, etc.) issued by the earlier Merovingians did little to diminish the prevailing uncertainty over the law. The ordinances issued by the Carolingians, known as capitularies (*capitulare*, *capitula*), were more effective in giving some stability to the law; but the results were still modest.<sup>19</sup>

Having said something of the institutions which were supposed to guarantee the peace (*pax*) within the *Regnum Francorum*, we must make some mention of the institution which was employed in its external conflicts or in civil wars: the army.

The army was composed of all free men, Franks, other Germanic tribes and Gallo-Romans. Under the Merovingians its organisation seems to have been far from uniform and often exceedingly primitive. Apart from a few elite groups of warriors, Merovingian armies fought as savage and undisciplined hordes. Under the Carolingians, a reduction in numbers, and efforts to improve the offensive and defensive armament and to set up a good cavalry, were seemingly not without fruit; the growth of vassalage provided the Frankish kings with a nucleus of troops who were in practice permanent soldiers, well armed and well mounted.<sup>20</sup>

To conclude this brief account of the organs of government at the

disposal of the Frankish monarchy, it is necessary to mention one institution, known to have been introduced at a particular time, which was used to secure some control over the functioning of the rest: a control designed to permit interventions and, as need arose, the introduction of reforms to improve the working of the other organs. It was with this end in view that the early Carolingians, as mayors of the palace and kings, developed the device available to the head of the Frankish state of using *missi dominici*, that is royal commissioners, to enquire into particular cases; under Charlemagne this practice was converted into regular periodic inspections conducted by the *missi*, inspections which, with some alteration, continued under his successors. Although the results did not always come up to expectations, under Charlemagne and Louis the Pious the intervention of the *missi* helped to make the working of public institutions somewhat more efficient.<sup>21</sup>

One of the special features of the system of institutions under the Frankish monarchy was the place occupied in it by privilege:<sup>22</sup> by privilege, I mean legal dispositions derogatory to the common law, in a sense favourable to the corporate bodies or individuals who were the beneficiaries. The importance of privilege in the political, juridical and economic structure of the *Regnum Francorum* is to be explained by the operation of a number of factors. One of these was the inadequate protection granted to persons and property by the all too irregular functioning of the organs of public power.

It is essential to give a little space to the privileges granted by the heads of the Frankish state. I shall limit myself to those which strike me as the most important in relation to this present survey.

The most direct consequence of the inadequacy of the general system of protection, which has just been mentioned, was the development of a form of particular protection, the royal *mundeburdis* (French: *maimbour*), which was conferred on individuals. It was also extended to certain persons by category; during the Carolingian period at least it was enjoyed, for example, by pilgrims (*peregrini pro Deo*). The privilege was also granted to churches. Louis the Pious conferred royal protection (usually described as *defensio*), for themselves and their property, on all churches enjoying the privilege of immunity.<sup>23</sup> Violations of the royal *maimbour* were regarded as violation of the *bannum*, and were visited with similar penalties. Those who came under the king's special protection could claim the privilege of jurisdiction, that is the right to have cases to which they were party judged by the palace court.

Another privilege, the immunity (*immunitas*; from the time of Louis the Pious more often *immunitas*), occupied a place of quite particular importance within the institutional framework of the Frankish monarchy.<sup>24</sup> It was a privilege granted to a church in respect of a single property, or

more generally for its landed patrimony as a whole. The reason for it lies largely in the arbitrary manner of fixing and collecting whatever survived in the way of direct impositions or other taxes and dues of Roman origin, particularly during the Merovingian period: it was thus a considerable advantage for an ecclesiastical establishment to be exempt from direct taxes and other dues, and the franchise often carried with it the right to collect them on the church's own account. Another reason why this privilege was sought after was the rapacity of the agents, above all of the lesser agents, of public power: the rule forbidding them to intrude, except in strictly defined cases, on the precincts and lands of an immunist church, to a large extent insulated that church and its dependents from a wealth of abuses; it had the further effect of developing in some degree the jurisdiction exercised by the church in its capacity as landed proprietor.

We have seen that both the immunity and the special protection granted to churches and *miserabiles personae* were eagerly sought after because of the protection they afforded against abuses. The reasons why the king or emperor granted or confirmed such privileges were several. First and foremost there was the religious factor, which seems to me incontrovertible; but we cannot altogether disregard the monarch's anxiety in some cases to secure the support of some prelate or abbot with power and influence, especially during the Carolingian period, when many abbots were lay aristocrats. The attitude of both parties—the grantor of the privilege and its beneficiary—assumes that public power was unfitted to play its full role.

Among other privileges worth mentioning are those connected with payment of toll (*teleoneum*), the most considerable of the indirect taxes, to which we shall have to return.<sup>25</sup> From general motives of piety, but also perhaps, in certain cases, to secure the support of some powerful personage, the kings granted ecclesiastical establishments total or partial exemption from toll: more generously, it appears, under the Carolingians than under the Merovingians. This favour was also granted to pilgrims as a class, at least in respect of their baggage. For a large church or abbey a privilege of this type did not merely represent a considerable negative advantage: the exemption made the task of provisioning the community easier and gave a considerable stimulus to the sale of produce grown on the church's estates and to the purchase of such commodities as were not.<sup>26</sup>

Although not falling within the category of privilege, some brief mention should be made of certain ecclesiastical institutions, for example tithes and ninths, and the division of the *mensae* (French: *menses*). Their origin can in part be ascribed to the operation of factors analogous to those which produced the privileges just discussed.

The authority exercised by the Merovingian and Carolingian heads of the Frankish state over the Church within the *Regnum* was extensive in

the extreme. The intensity with which it was exercised varied; some rulers showed greater diplomacy in the matter than others. But that this authority was indeed exercised, even under the Carolingians, almost all of whom were deeply religious,<sup>27</sup> and even under Louis the Pious, the most religious of them all, has to be accepted as a fact, and a fact of capital importance.

In particular, all these rulers, when they judged it necessary, availed themselves of the immense landed wealth of the Church. It is well known that Charles Martel, Carloman I and Pippin III, mayors of the palace who acted as kings, and Pippin III after his accession to the throne in 751, in order to safeguard the *Regnum* and their dynasty distributed a large part of the Church's patrimony to their vassals, at first in full ownership and afterwards in 'benefice'. We should, I think, accept that the introduction of the compulsory tithe (*decima*: a tenth of the fruits of the earth and of the increase in livestock) as a payment to churches was the work of Pippin III, and that he regarded the payment as a general compensation for the damage the churches had suffered and were still suffering.<sup>28</sup> The 'ninth' (*nona*), that is to say a second tithe due from royal vassals who held church land in benefice, and payable to the church which owned the property, was a supplementary compensation, devised by Charlemagne in 779. The root cause of all this was the inability of the earlier Carolingians to maintain and reward an effective military apparatus merely from their own resources.<sup>29</sup>

The same state of affairs explains why all the Carolingians, to secure the needful revenues for their chief collaborators and to win the help and support of some key men, appointed laymen and secular clergy to the headship of important abbeys: the result, all too often, was that the major part of the abbey's revenues was consumed by the lay or secular abbot, while the community lived in penury, to the potential detriment of the religious life. Since it was impossible to dispense with lay or secular abbacies, monarchs from Louis the Pious onward favoured the constitution within the monastic patrimony of a portion withheld from the abbot, whose revenues were to be set aside exclusively for the maintenance of the community; the same reform was introduced into the patrimony of cathedrals, for the benefit of the chapters of canons. In the following century these portions became known as the *mensa conventualis* or *capitularis* in distinction to the *mensa abbatialis* or *episcopalis*.<sup>30</sup>

Since our concern here is with the essential features of the institutional framework under the Frankish monarchy, we must naturally examine what resources the monarchy had at its disposal.

In the first place there were the proceeds from war, starting with captives, who at least until the beginning of the ninth century were regarded as slaves. Some of those who fell to the king's share might be put to work on the royal domains; others might be sold, perhaps, as



sometimes happened, to the kings or chieftains whose subjects or subordinates they had been before their capture.<sup>31</sup>

The king's share of the booty is certain to have been very considerable, and during periods of conquest must have brought substantial additions to the treasury. Naturally, not all were of the magnitude of the Avar treasure, brought back in 796 after the capture of the Avar 'Ring' in the preceding year.<sup>32</sup>

As well as booty, there were the annual tributes imposed on conquered peoples. We come across instances of such tributes, payable in coin or in kind, at nearly every period in Frankish history; in most cases payments ceased almost immediately or were made only in irregular fashion. To quote a few examples: an annual tribute of three hundred cattle was demanded from the Saxons by Chlotar I in 556, and may have been imposed by Theuderic I at an earlier date; in 748 Pippin III had this promise renewed, and in 758 demanded a tribute of three hundred horses. The Lombards were paying the king of the Franks an annual tribute of twelve thousand gold *solidi* from an unknown date down to 617–8. In 787 duke Arichis of Benevento promised Charlemagne a tribute of seven thousand gold *solidi*, an engagement soon broken but renewed in 814 by duke Grimoald, vis-à-vis Louis the Pious.<sup>33</sup>

Tributes should not be confused with subsidies. The Merovingians received subsidies from the Byzantine emperor as the price of their alliance against the Ostrogoths and later against the Lombards, just as they received subsidies from one pretender to the throne of the Visigothic kingdom in Spain for their support against another. Some of the subsidies in question were enormous: the emperor Maurice is said to have paid fifty thousand gold *solidi* in 583 for military assistance—totally ineffective—from the Austrasian king Childebert II. Again, it is said that in 631 Dagobert I received two hundred thousand gold *solidi* from the Visigothic king Sisenand, as the price of his services.<sup>34</sup>

The proceeds of war were of a 'casual' nature; furthermore, since they depended on the success of the Frankish armies, for most of the seventh century and in the early part of the eighth, and again from the thirties of the ninth century, there was very little to be gained from this source: in *Francia Occidentalis* the proceeds dropped to zero, and it would not be long before the Frankish kings were forced to pay tribute themselves.<sup>35</sup>

The revenues brought in by the domains present a more regular picture. There were nevertheless considerable fluctuations, due in part to natural causes, but still more to the methods of exploitation and control, to the granting out of domains in precarial tenure or in benefice to vassals, to the gifts made to churches or individuals whose services or goodwill had to be secured, and to usurpations. In the present state of our knowledge it is impossible to form an exact idea of the amount of landed wealth

possessed by the kings and emperors at various times during the four centuries with which we are concerned. But I think it safe to say that it was usually considerable, and that at certain periods it must have been enormous: in the sixth century, for example, and again during the reigns of Pippin III and Charlemagne, and in the early part of the reign of Louis the Pious. The spread of these royal domains over the *Regnum Francorum* was uneven, which meant that some of the *Teilreiche* were less well endowed in this respect than others.<sup>36</sup>

The domains (*villa regia*, *fiscus*; where a royal residence formed the centre, *palatium*) had an immediate use, which we may think the most important: their produce was available, either on the spot or at a short distance, for consumption by the king or emperor and his retinue when they took up residence in the region; similarly, under the Carolingians at least, part of the produce might be earmarked for provisioning the armed forces. Allocations of this kind did not, however, use up the whole product (*conlaboratus*, *laboratus*). In Charlemagne's time, but also no doubt at other periods as well, part of the product was sold, and a proportion of the proceeds had to be paid into the Treasury.<sup>37</sup>

Along with the domains we should mention the hunting reserves (*forestis*), which could in fact embrace lands which had never, or no longer, formed part of the royal patrimony.<sup>38</sup> The fruits of the chase helped to supply and equip the *Palatium*, its numerous personnel and the many followers and hangers-on. This is also the place to mention the royal mines, open mine-workings (*metallum*, *fossa ferraria sive plumbaria*) and salt pans (*salina*, *salinaria*).

There can be no doubt that between them maladministration, usurpation, misappropriation, wastage, and transport difficulties substantially reduced the effective yield from the royal domains, as from the other inherited resources I have grouped with them. The Carolingians' multiple attempts at remedying this state of affairs<sup>39</sup> at times succeeded in limiting the disorder; but they never eliminated it completely. From the end of the reign of Louis the Pious its increase must have been considerable.

A third group of resources can be described as 'profits arising from the exercise of power'. The chief of these must be mentioned, if only briefly.

First, there were the profits from coinage, insofar as minting was in royal hands. Under the Merovingians, therefore, these profits were very restricted, since royal minting was on a much smaller scale than that of the private moneyers, the *monetarii*. Under the Carolingians, when minting — save in exceptional cases — once more became a royal monopoly, it must have produced considerable revenues for the treasury. The amounts brought in naturally differed with the period and the region.

The profits of justice may have been considerable: two-thirds of the *fredum*, that is of the one-third of the Frankish composition fine, went to the king, the remaining third being reserved for the count. The king also

took a fraction of the composition fines levied under the other Germanic laws. When we come to the penal fines—presumably the penal fines levied under Roman law, the fines which served as sanction for the royal *bannum* (60 *solidi*), and the fines created by the Carolingians to punish particular offences (for example the fine of 600 *solidi* for violation of restricted immunity)—we are on less sure ground: I am inclined to the view that the count was entitled to hold back a fraction before transferring the sum paid to the Treasury. One such fine, the *beribannum*, which was the punishment for the non-performance of military service, must have been quite lucrative in view of the large number of defaulters; under Charlemagne's successors, especially in *Francia Occidentalis*, the *beribannum* seems to have become a kind of 'military tax', payable by persons whose 'service' did not come up to scratch.

In contrast with what is known regarding the judgments pronounced in the *mallus* or at the *placitum* held by the *missi*, there is every reason to believe that when the Palace court imposed a composition or penal fine the whole of the *fredum*, or the whole of the penal fine, went to the king—perhaps after the deduction of a fraction for the count of the palace. The inherent advantage was all the greater in that during the Merovingian and Carolingian periods the Palace court could impose some quite heavy arbitrary penalties.

The Palace court sometimes decreed, usually as a supplementary penalty, the total or partial confiscation of goods. It appears, too, that this could also happen in virtue of what we should describe as an administrative decision taken by the king.

The profits from justice and the confiscations of property could have been a source of appreciable revenue to the crown. But in the case of the *freda* and the penal fines payable under judgments reached in the ordinary courts, there must have been a considerable leakage: not everything due to the king can have found its way to the Treasury. In any case, the execution of the judicial decisions reached in the *mallus*, or at a session presided over by *missi*, or by the Palace court, must have presented formidable difficulties, especially when the amount in question was very large.

Another potential source of income lay in the statutes of privilege granted by the king. For example, the merchants (*mercatores*) attached to the Palace, who enjoyed important commercial privileges in return for the services they rendered, were required to make an annual or biennial payment to the Treasury. We know that this happened during the reign of Louis the Pious.<sup>40</sup>

One final source of profit arising from the exercise of power deserves to be mentioned: the presents brought by the ambassadors of foreign monarchs or peoples. When partitions of the Frankish kingdom were envisaged or had been effected, the kings of the *Teilreiche* felt an obligation to exchange such gifts on occasions when they met. The presents

sometimes took the form of valuable objects made from precious metal.<sup>41</sup>

We come next to various groups of revenues which it would be overbold to describe as direct taxes: the most that can be said of them is that they present analogies with direct taxes.

In this group, the fourth group of revenues to be discussed, we have first of all the old Roman direct taxes, or to be more precise what survived of them. The Merovingians made attempts to continue the Roman land tax (*capitatio terrena, jugatio*) and poll tax (*capitatio plebeia*) in Gaul, and even tried to adapt them to fresh circumstances. In the course of the sixth and seventh centuries, the growing opposition of the people and the Church to exactions which no longer showed any corresponding benefit worked in conjunction with many other factors to deprive these *tributa*, *functiones* and *census* of their former scope and importance. By the end of the seventh century, it can be said that as an institution they had ceased to exist. In the Carolingian period traces of them still survived here and there in the guise of customary dues levied on land or persons and payable to the king. In the sources they are usually described as *census regius* or *regalis*.<sup>42</sup> This term can also, however, be used of other sources of revenue.<sup>43</sup>

In addition to these former Roman direct taxes one can point to other direct taxes, probably not so old, which existed in certain parts of Gaul, for example the *inferenda*, found in a part of the West: collected originally in heads of cattle, from the eighth century this tax was convertible into *denarii*.<sup>44</sup>

In some basically Germanic parts of the territory ruled by the Frankish monarchy there is mention during the eighth and ninth centuries of a *tributum* variously described as *stuofa*, *osterstuofa*, *medem*. Scholars whose opinions are worthy of respect have interpreted it as a tax on the occupation of royal lands, levied on men whose origins were various but who derived their status of *Franci liberi* (German: *Königsfreien*) from the king's protection and the services they owed him. The tax they paid, when it was not described by one of the regional expressions quoted above, went by the name of *census regalis* or *census regius*.<sup>45</sup> I mention this interpretation merely in order to draw attention to its existence.<sup>46</sup> Whatever their origin, it appears that the *census regales* were not easy to collect, even under Charlemagne.

I include within this same group of revenues the 'gifts' made annually to the king, the *annua dona*. According to ancient Germanic tradition these were presents brought to the king voluntarily. Under the Carolingians—and no doubt earlier—they were obligatory in character: an imposition laid on each member of the aristocracy and on ecclesiastical establishments. The 'gifts' were often demanded in kind, in particular in weapons and horses, and must have been quite considerable since they were able to provide mounts, and even arms, for a number of military units.



For the sake of completeness, mention must be made of the direct taxes, for such they were, which were raised to pay the tribute demanded by the Normans as the price of their departure: in *Francia Occidentalis* the tax was first collected in 845 and on several subsequent occasions; in Lotharingia it was collected in 864. In view of their destination, these taxes cannot be classed as an institution which produced new resources for the monarchy.<sup>47</sup>

The fifth group of resources to be considered consists of indirect taxes. Chief among them was the toll (*teloneum*), a royal tax levied at the frontiers (at the ports in particular) and internally, on the circulation and sale of merchandise. This duty was a continuation of two Roman indirect taxes, the *portorium* (sometimes called *teloneum* even in Roman times), which was a duty on goods in circulation, and the *siliquaticum*, which was a duty on sales. Under the Frankish kings the toll was introduced into regions which had never formed part of the Roman empire and the number of collecting points increased. During the Merovingian and Carolingian periods it was undoubtedly a source of substantial revenue to the crown, whether the king ruled a *Teilreich* or the united *Regnum*. The amount it yielded, however, was reduced by grants out of the revenue from some of the customs offices, or of the customs offices themselves, to certain churches; and it was still further reduced by the much more usual concession of partial or complete exemption from toll, granted to churches by the Merovingians, and with even greater liberality by the Carolingians. The agents responsible for collecting the toll (*teleonearius*), and the counts who were their superiors, no doubt diverted more into their own pockets than the proportion they were entitled to by way of remuneration. We can well believe that the establishment of customs posts operated by local agents and *potentes* on their own account also reduced the usefulness of tolls as sources of royal revenue.

We should include in this fifth group certain taxes complementary to the toll, for example the 'wheel-tax' (*rotaticum*) and 'bridge tax' (*pontaticum*); in general their fortunes followed those of the major tax.<sup>48</sup>

The product of all the royal revenues, other than those earmarked for some special purpose, had to be paid into the royal Treasury; the usual name for the treasury was *thesaurus* under the Merovingians and *fiscus* or *camera* under the Carolingians, though other expressions, for example *aerarium*, are also found. In principle the Treasury had its habitation wherever the king had his, but it did not always move with him in its entirety. In addition to minted pieces the Treasury housed mintable precious metal and valuable objects, some of which could be turned into mintable metal, but also many others (stuffs, books, etc.). Custody of the Treasury seems to have been the responsibility of one of the household dignitaries, the *camerarius*, assisted by *sacellarii* and *dispensatores*. When the *Regnum* was divided, each *Teilreich* had its own Treasury.

It is not known whether the Treasury had a book-keeping department, even of the most primitive kind, which allowed even a minimum degree of foresight. The Treasury was an instrument of government. It had its uses in external relations. It was more useful still in internal politics, in efforts to win support, in rewarding services, in attempts to consolidate wavering loyalties, and so on. The Treasury was never used to remunerate the agents of public power. It played an essential role in the benefactions made to churches.

Any attempt at characterising the system of institutions under the Frankish monarchy would in my view omit something essential if no attention were paid to the place occupied by the written word.

There were times when written documents played an important role. The oldest collections of formulae, assembled as models for the drafting of acts and used by the Frankish monarchy, leave no doubt that in the sixth century, and during the first half of the seventh, written documents were used in administration to a quite considerable extent: for example, patricians, dukes and counts received royal diplomas of appointment.<sup>49</sup> The importance assigned to written documents for administrative purposes then seems to decline, until by the middle of the eighth century it stands at zero. Pippin III in a modest way, but above all Charlemagne, Louis the Pious, and in *Francia Occidentalis* Charles the Bald, made vigorous and systematic efforts to make the written word play an important part in the administration of the *Regnum*. Persuaded of the potency of the written word as a factor making for regularity and stability, these monarchs used it themselves and prescribed its use to their agents: the most notable examples are the instructions given in connection with the administration and upkeep of all the royal domains, the administration of the oath of fidelity to the king or emperor, and the mobilisation of the army. Whether these instructions were properly carried out remains doubtful in the extreme.<sup>50</sup>

An important observation needs to be made with regard to the documents issuing from the monarch himself. These documents never, in my view, formed an essential element in the royal act of authority. The only essential element was the decision taken by the monarch and pronounced by him orally, where need be with due regard to the forms. The document subsequently drawn up in the king's name might serve as proof that the decision had been taken, or as a means of publishing the decision, or as a memorandum to the agents charged with its execution: which of these various uses it was put to depends on the nature of the act.<sup>51</sup>

Apart from the purely administrative documents, we can, I think, divide most of the written acts of the Frankish monarchs, *pro subjecta materia*, into two groups: those we might describe, stretching the point a little, as 'chancery acts', and those which fall under the general heading of 'edicts'.

The 'chancery acts', that is the acts drafted and copied in the Palace writing offices,<sup>52</sup> were diplomas or 'precepts' which would serve as means of proof in support of gifts or concessions of various kinds. Some of these acts were *placita*, diplomas drawn up in favour of a party whom the Palace court had declared to be in the right in a suit submitted to it. They could equally well be *tractoriae*, mandates from the king to his agents ordering them to respect the privileges granted to the beneficiary, and in certain circumstances to supply him with the provisions to which he was entitled. With very few exceptions, the purpose of these documents was to secure to individuals or corporate bodies—usually churches—the enjoyment of individual rights which had their origin in a grant of favour or privilege made by the king. The use of the written word by the Frankish monarchy is thus bound up with what has already been noted as one of the most characteristic features of its system of institutions: the place occupied in it by privilege.<sup>53</sup>

By 'edicts' I mean written documents in which the king's will manifests itself over a field wider than that covered by the rights of a single beneficiary. Edicts were promulgated by Merovingian kings down to the time of Dagobert I, and some of them have survived.<sup>54</sup> The practice was resumed under the Carolingian mayors of the palace and continued under the kings. Under Charlemagne, Louis the Pious and Charles the Bald (ruling in *Francia Occidentalis*), this activity becomes intense.

The edicts are usually known under the name capitulary (*capitulare*, *capitula*). There is no indication, save in exceptional cases, that they were drafted in what is conventionally known as 'the chancery'. Some of the provisions they contain are normative; we should nowadays describe them as legislative or statutory. A few of these complete or modify the whole body of national laws in force within the *Regnum Francorum*, or do so in respect of one or other of such laws. But in the majority of cases the provisions contained in the capitularies present a non-normative, administrative character: they are measures taken in the ordinary course of administration. Nearly all the articles contained in *capitularia missorum*, the memoranda setting out the instructions given to *missi dominici*, quite clearly fall into this category.<sup>55</sup> The capitularies represent a remarkable effort, sustained for close on a century, at securing to the exercise of government a permanence, stability and regularity which would be unthinkable without recourse to the written word.<sup>56</sup>

In conclusion, some mention must be made of the presence of contractual elements within the institutional framework of the Frankish monarchy.

In the first place, there was the oath of fidelity which the subjects, or the most prominent of them, took to the king: a promise of loyalty, confirmed by oath. The oath of fidelity existed for a while under the Merovingians, but very little is known of the institution before the time

of Charlemagne. We know that Charlemagne ordered all his subjects to take an oath of fidelity to him in 789, again in 793, and yet a third time in 802, after his imperial coronation, when they had to swear a new oath of fidelity to him as emperor.<sup>57</sup>

We have no precise information about what happened after Charlemagne's death: no firm indication is found in the sources of any general administration of an oath of fidelity to the emperor under Louis the Pious;<sup>58</sup> the oaths known to have been administered in the *Teilreiche* were not general oaths, or were confined to particular regions, though there may have been an attempt at a general administration of the oath in *Francia Occidentalis* in 834.<sup>59</sup>

The oath of fidelity is an institution which evades our exact understanding. Its role was not to create the subject's obligation of fidelity, which already existed independently, but to reinforce it.

Apart from these measures, which were of general application, contractual relationships which subordinated one man to another were also accommodated within the institutional framework of the Frankish monarchy.

The Merovingian kings had their *antrustiones*, warriors whose personal service to the king was secured by an engagement taken under oath; they were protected by a triple *vergeld*. The *antrustiones* appear to have been relatively few in number, and very little is known of their role.

By contrast, we know that from the time of the first Carolingians there was a very great development of the vassalage which consisted in a relationship calling for obedience and service on the one side and protection and maintenance on the other: with vassals—picked warriors and horsemen—at their disposal, the mayors of the palace and kings were provided with a permanent fighting force whose efficiency far exceeded that of troops composed of subjects performing their military service. The distribution of 'benefices' to vassals helped to boost their social status. Charlemagne's measures made royal vassalage part of the institutional system of the Frankish monarchy; at the same time, they incorporated private vassalage into the system, by assigning specific military obligations to churches, counts and others who maintained vassals of their own. On the other hand, Pippin III, Charlemagne, Louis the Pious and their successors attempted to use vassalage as a means of reinforcing their power over the agents of their authority. They required the latter to become their vassals, thus duplicating the power they exercised over them as king by a more personal authority exercised as lord. The effect of this policy was limited and transitory; to a large extent, the results it achieved ran counter to those intended.<sup>60</sup>

Many of the elements which formed part of the institutional system of the Frankish monarchy, particularly as it existed during the Carolingian

period, were incorporated into the institutional framework of the successor states as they emerged in the late ninth century. In these new systems they would act as constitutive elements; sometimes they acted as factors of dissociation from older frameworks, or as factors leading to the creation of new elements. They would meet and combine with elements of different origin. In some cases they would fail to hold their own. But their role would always be important. Knowledge of the essential features of the institutional system under the Frankish monarchy is indispensable to any serious attempt at understanding the structure of the states, including the great principalities, of Western and Central Europe between the end of the ninth and the beginning of the thirteenth centuries.

#### NOTES

\* 'Les traits généraux du système d'institutions de la monarchie franque', *Il passaggio dell' Antiquità al Medioevo in occidente*, SSCT, ix, 1961 (Spoleto, 1962).

1. The subject has been treated in some works of outstanding merit. The principal titles are as follows. G. Waitz, *Deutsche Verfassungsgeschichte*, II (3rd edn, in two parts, Berlin, 1882), III and IV (2nd edn, *ibid.*, 1883–5), which is still important, despite its date, because of the ample documentation. H. Brunner, *Deutsche Rechtsgeschichte*, I (2nd edn, Leipzig, 1906), II (2nd edn, by C. von Schwerin, Munich and Leipzig, 1928): the basic treatise. R. Schröder, *Lehrbuch der deutschen Rechtsgeschichte* (7th edn, by E. von Künzberg, Berlin and Leipzig, 1932): lucid, more succinct than Brunner. H. Conrad, *Deutsche Rechtsgeschichte*, I (Karlsruhe, 1954); very much to the point, excellent bibliographies. N. Fustel de Coulanges, *Histoire des institutions politiques de l'ancienne France*, III, *La Monarchie franque* and VI, *Les Transformations de la royauté pendant l'époque carolingienne* (ed. C. Jullian, Paris, 1888, 1892): forceful, in parts outstanding, but marred by an excess of 'systematisation', a want of legal insight and some shortcomings in matters of scholarship. A. Esmein, *Cours élémentaire d'histoire du droit français* (15th edn, by R. Génestal, Paris, 1925): a very clear general account in French. J. Declareuil, *Histoire générale du droit français des origines à 1789* (Paris, 1925). E. Chénon, *Histoire générale du droit français public et privé*, (Paris, 1926). F. Olivier-Martin, *Histoire du droit français des origines à la Révolution* (Paris, 1948). A. Dumas, *Manuel d'histoire du droit français* (Aix-en-Provence, n.d.): a very individual treatment. These five French manuals are more succinct than their German counterparts.

The Merovingian period is dealt with in original and lively style by F. Lot in his chapter 'Les institutions mérovingiennes' contributed to F. Lot, C. Pfister and F. L. Ganshof, *Les Destinées de l'Empire en Occident de 395 à 888* (2nd edn, Paris, 1940–1). The same volume contains a chapter entitled 'Les institutions de la monarchie carolingienne', contributed by the present author. L. Halphen has some fine pages on institutions of the Carolingian

period in his *Charlemagne et l'empire carolingien* (2nd edn, Paris, 1949). F. Steinbach's very full survey *Das Frankenreich* (in the *Handbuch der Deutschen Geschichte*, I (2nd edn, directed by L. Just, Constance, 1956) has no sections devoted specifically to the institutions, but there are pages dealing with the subject which are well worth reading.

2. On the 'Germanist' and 'Romanist' schools see the remarks by F. Lot, *op. cit.*, p. 302, nn. 26 and 27: brief, but full of meat.
3. F. Lot's characterisation of the institutional system under the Frankish monarchy—the 'organisation of power', to use his expression—deserves to be quoted in full (*op. cit.*, 302). These few lines display to the full the acute historical insight and lucidity of expression which went with his superior cast of mind. 'Le roi mérovingien, pour organiser sa conquête, ne s'embarrasse d'aucun système. Qualifier de "germanique" ou de "romaine" sa construction est un non-sens. Le roi conserve du passé, romain ou germanique, ce qui convient à ses intérêts ou à ses goûts. Il n'opère pas d'innovations systématiques, mais en cas de besoin, il n'hésite pas à faire du neuf.' ('In organising what he had conquered the Merovingian king tied himself to no system. It makes no sense to describe what he created as either "Germanic" or "Roman". The king retained from the past, whether Roman or Germanic, whatever suited his interests or appealed to his tastes. Without making any systematic innovations, when need arose he had no hesitation in devising something new.')
4. The big German treatises give details about Alamannia, Bavaria, Frisia and Saxony; for Provence prior to the measures introduced by Charles Martel, see R. Buchner, *Die Provence in merowingischer Zeit* (Stuttgart, 1933), and for Rhaetia, E. Meyer-Marthaler, *Rätien im frühen Mittelalter* (Zurich, 1948). For ninth-century Saxony consult S. Krüger, *Studien zur Sächsischen Grafenschaftsverfassung im 9. Jahrhundert* (Göttingen, 1950), and the review by H. J. Freytag, *Niedersächsisches Jahrbuch für Landeshgeschichte*, xxiii (1951), 199–200.
5. To the works cited above, add the important volume *Das Königtum* (Lindau and Constance, 1956: vol. III of *Vorträge und Forschungen*, published under the direction of T. Mayer); note in particular the contributions by E. Ewig, O. Höfler, W. Schlesinger, R. Buchner, H. Büttner, T. Mayer, and, for the empire, F. Kempf.
6. A radical, but perfectly sound, summing up by F. Lot again deserves to be quoted. Writing of the relationship of the inhabitants of the kingdom to the Merovingian king he remarks: 'Tous sont égaux politiquement parce qu'ils sont égaux dans la servitude' (*op. cit.*, 310: 'All were politically equal, because equal in servitude').
7. The monograph by W. Sickel, 'Die Merowingische Volksversammlung', *MIÖG*, II, *Ergänzungsband*, 1888, still repays careful reading.
8. On this subject see Lot's vigorous commentary on the assembly of Coulaïnes November 843 (*MGH Cap.*, II, no. 254), in F. Lot and L. Halphen, *Le règne de Charles le Chauve*, I (Paris, 1909), 90–7.
9. The best expositions, in my view, are those of G. Tellenbach: *Königtum und Stämme in der Werdenzeit des deutschen Reiches* (Weimar, 1939), and *Die Entstehung des deutschen Reiches* (Munich, n.d. [1940]).

10. On all the foregoing see the discussion between the present author and R. Buchner which followed the latter's excellent paper 'Die römischen und die germanischen Wesenszüge in der neuen politischen Ordnung', contributed to *Caratteri del secolo VII in Occidente*, printed vol. v, 1, of the series *ASCI* (Spoleto, 1958), 320-5. The most important works on Merovingian partitions are now the two studies by E. Ewig: 'Die fränkischen Teilungen und Teilreiche, 511-613', *Akademie der Wissenschaften und der Literatur, Mainz, Abhandlungen der Geistes- und Sozialwissenschaftlichen Klasse* (1952), and 'Die fränkischen Teilreiche im 7. Jahrhundert, 613-714', *Trierer Zeitschrift*, xxii (1954).
11. On the *Ordinatio* (MGH *Cap.*, 1, no. 136) and its significance, see F. L. Ganshof, 'Observations sur l'Ordinatio Imperii de 817', *Festschrift Guido Kisch* (Stuttgart, 1955), translated below, Ch. xv.
12. For the 'imperial' policy pursued by Louis the Pious and the fleeting triumph of an abstract conception of power, see: F. L. Ganshof, 'Louis the Pious reconsidered', *History*, xlii (1957), reprinted below, Ch. xiv, and T. Schieffler, 'Die Krise des Karolingischen Imperiums', *Aus Mittelalter und Neuzeit. Festschrift zum 70 Geburtstag von Gerhard Kallen* (Bonn, 1957). On the problem in its ecclesiastical aspect, see J. Semmler, 'Reichsidee und kirchliche Gesetzgebung bei Ludwig dem Frommen', *ZKG*, lxxi (1960).
13. For this reservation see F. L. Ganshof, 'La fin du règne de Charlemagne. Une décomposition', *Zeitschrift für Schweizerische Geschichte*, xxviii (1948), translated below, Ch. xii.
14. The classical account is still that of H. Bresslau in his *Handbuch der Urkundenlehre für Deutschland und Italien*, 1 2nd edn, (Leipzig, 1912), complemented by G. Tessier's valuable observations on the 'chancery' of Charles the Bald, in the Introduction to his *Recueil des actes de Charles II le Chauve*, iii (Paris, 1955). For discussion of the highly debatable concept of 'chancery', and of the relationship between the departments under the chancellor and the *Capella*, see H. W. Klewitz, 'Cancellaria' and 'Kanzleischule und Hofkapelle', *Deutsches Archiv für Geschichte des Mittelalters*, 1 (1937), and iv (1940), and J. Fleckenstein, *Die Hofkapelle der deutschen Könige. Part 1. Grundlegung. Die karolingische Hofkapelle* (Stuttgart, 1959).
15. J. Dhondt, 'Le titre du marquis à l'époque carolingienne', *Archivum Latinitatis Medii Aevi* (Bulletin du Cange), xix (1946).
16. Investigation of these families is very important. For the Merovingian period, see K. F. Stroheker, *Der Senatorische Adel im Spätantiken Gallien* (Tübingen, 1948) and R. Sprandel, *Der Merovingische Adel und die Gebiete östlich des Rheins* (Freiburg im Breisgau, 1957). For the Carolingian period, R. Poupardin, 'Les grandes familles comtales à l'époque carolingienne', *Revue Historique*, lxxii (1900), although old, is still of great value. More recent works: for the west, M. Chaume, *Les Origines du duché de Bourgogne*, 1 (Dijon, 1925); for the east, G. Tellenbach, *Königtum und Stämme* (see above, n. 9) and the studies by this scholar and his pupils (J. Fleckenstein, K. Schmid, F. Vollmer, J. Wollasch) published under the title *Studien und Vorarbeiten zur Geschichte des grossfränkischen und frühdeutschen Adels herausgegeben von G. Tellenbach* (Freiburg im Br., 1957). Two exemplary monographs:

- L. Levillain, 'Les Nibelungen historiques', *Annales du Midi* (1937); P. Grierson, 'La maison d'Évrard de Frioul et les origines du comté de Flandre', *Revue du Nord*, xxiv (1938). By way of comparison, see two works on Carolingian Italy: E. Hlawitschka, *Franken, Alemannen, Bayern und Burgunder in Oberitalien* (Freiburg im Br., 1960), and an outstanding paper by D. A. Bullough, 'Leo, "qui apud Hlotharium magni loci habebatur" et le gouvernement du "Regnum Italiae" à l'époque carolingienne', *Le Moyen Age* (1961).
17. This fact had long been known, but J. Dhondt quite rightly drew attention to its importance in his *Études sur la naissance des principautés territoriales en France* (Bruges, 1948).
18. This idea is the basis of F. Lot's remarks on 'the adoption of the Germanic system of jurisdiction' under the Merovingians, op. cit., 309-10.
19. F. L. Ganshof, *Recherches sur les capitulaires* (Paris, 1958), and the German translation of the same work (by W. A. Eckhardt), which is in fact a new edition, revised by the author, *Was waren die Kapitularien?* (Weimar and Darmstadt, 1961).
20. On this subject see: F. Lot, *L'Art militaire et les armées au moyen âge* (Paris, 1946, 2 vols); H. Conrad, *Geschichte der deutschen Wehrverfassung* (Munich, 1939); F. L. Ganshof, 'A propos de la cavalerie dans les armées de Charlemagne', *Académie des Inscriptions et Belles Lettres, Comptes rendus des séances* (1952), and note the *Errata*, correcting references to previous pages, made necessary because the author was given no opportunity to read a second proof.
21. V. Krause, 'Geschichte des Instituts der missi dominici', *MIÖG*, xi (1890), is still very important; but a study like W. A. Eckhardt's 'Die Capitularia missorum specialia von 802', *Deutsches Archiv für Erforschung des Mittelalters*, xii (1956), shows that the traditional views are in need of revision.
22. R. Dochaerd, 'Exemption d'impôts indirects et circulation privilégiée en Europe Occidentale pendant le haut moyen âge', *Hommage à Lucien Febvre* (Paris, 1953, 2 vols), has some passages on this subject which strike me as excellent, although I would not find myself in agreement with all the author's views.
23. On this see the notable study by J. Semmler, 'Traditio und Königsschutz', *Zeitschrift der Savigny Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, xiv (1959).
24. The basic studies are already rather old: M. Kroell, *L'Immunité franque* (Paris, 1910); E. E. Stengel, *Die Immunität in Deutschland bis zum Ende des 11 Jahrhunderts*, 1 (no more published), (Innsbruck, 1910). See further the very important article by L. Levillain, 'L'immunité mérovingienne', *Revue historique de droit français et étranger* (1927), and for a recent survey, F. L. Ganshof, 'L'immunité dans la monarchie franque', in *Les Liens de vassalité et les immunités* (2nd edn, Brussels, 1958), (Recueils de la Société Jean Bodin, 1, 2nd edn).
25. See above, p. 100.
26. L. Levillain, 'Études sur l'abbaye de Saint-Denis à l'époque mérovingienne. iv. Les documents d'histoire économique', *Bibliothèque de l'École des Chartes*, xci (1930).

27. See, for example, F. L. Ganshof, 'L'Eglise et le pouvoir royal dans la monarchie franque sous Pépin III et Charlemagne', *Le Chiese nei regni dell' Europa Occidentale e i loro rapporti con Roma sino all' 800* (Spoleto, 1960); *SSCI*, vii).
28. U. Stutz, 'Das karolingische Zehntgebot', *Zeitschrift der Savigny Stiftung für Rechtsgeschichte, Germanistische Abteilung*, 1908. With H. Feine, *Kirchliche Rechtsgeschichte*, 1 (3rd edn), I agree that Stutz's dating seems greatly preferable to others which have been proposed.
29. The best account of this problem as a whole still seems to me that of E. Lesne, *Histoire de la propriété ecclésiastique en France*, 1, II, 1, 2 and 3 (Paris and Lille, 1910, 1922, 1926, 1928).
30. E. Lesne, *L'Origine des menues dans le temporel des églises* (Paris and Lille, 1910).
31. C. Verlinden, *L'Esclavage dans l'Europe médiévale*, 1 (Bruges, 1955); F. L. Ganshof, 'L'étranger dans la monarchie franque', in *L'Etranger*, II (Brussels, 1958; Recueils de la Société Jean Bodin, x).
32. *ARF*, 796.
33. Gregory of Tours, *Historia Francorum*, IV, xiv (ed. B. Krusch and W. Levison, MGH in 4°, *Scriptores Rerum Merovingicarum*, 1, 2nd edn, p. 146); Fredegar, *Chronicle*, IV, lxxiv (ed. B. Krusch, MGH in 4°, *SS. rer. Merov.* II, p. 158, Wallace-Hadrill's edition (W-H), p. 63; Fredegar, *Cont.*, xxxi (117), MGH *ibid.*, p. 181, W-H, p. 101; *ARF*, 758; Fredegar, *Chronicle*, IV, xlv (MGH, *ibid.*, p. 144, W-H, p. 37); *ARF*, 787 and 814.
34. Gregory of Tours, *Hist.*, VI, xlii (MGH as n. 33, p. 314). Fredegar, *Chronicle*, IV, lxxiii (MGH, p. 157-8, W-H, p. 61-2). These figures cannot be accepted without reserve.
35. See above, p. 100.
36. There are a number of studies of the royal domains which attempt to establish precisely what is known about them, either in respect of the Frankish monarchy as a whole or for a particular area (in German, *Raum*); some of these studies confine themselves to a specific period, and these in the main have proved the most useful. Here it is not possible to refer even to the principal titles, but they can easily be discovered from the comprehensive bibliography given in W. Metz, *Das Karolingische Reichsgut* (Berlin, 1960), which is now by far the most important work on the royal domains at the Carolingian period.
37. In the edict *Capitulare de Villis* (MGH *Cap.*, 1, no. 32), issued at some time before 800, Charlemagne reorganised the exploitation and administration of the royal domains, his aim being to eliminate a number of abuses. See in particular c. xxviii, xxx, xxxiii, xlv, and the commentary by M. Bloch, 'La organización de los dominios reales carolingios y la teoría de Dopsch', *Anuario de historia del derecho Español* (1926).
38. Despite its title, there is much of interest for the ninth century in E. Fairon's excellent paper 'Les donations de forêts aux Xe et XIe siècles en Lotharingie et en Allemagne', *Revue belge de Philologie et d'Histoire*, IV (1925), reprinted in the collection of his papers published as *Miscellanées historiques* (Liège, 1945).
39. The best known attempt is represented by *Capitulare de Villis*, see above, n. 37. For these efforts in general, see W. Metz, *op. cit.*, and in particular the first section, 'Die Zentralverwaltung der Königsgüter'.

40. F. L. Ganshof, 'Note sur le "praeceptum negotiatorum" de Louis le Pieux', *Studi in onore di Armando Sapori* (Milan, 1957).
41. For the Merovingian period, see my paper 'Merowingisches Gesandtschaftswesen', *Ant. Geschichte und Landeskunde. Forschungen und Darstellungen Franz Steinbach zu seinem 65 Geburtstag gewidmet* (Bonn, 1960). For a good example from the Carolingian period, see *Ordinatio Imperii*, 817 (never put into effect), c.v. and xii (MGH *Cap.*, 1, no. 136).
42. F. Lot, *L'Impôt foncier et la capitation personnelle sous le Bas-Empire et à l'époque franque* (Paris, 1928).
43. See below, same page.
44. F. Lot, 'Un grand domaine à l'époque franque. Ardin en Poitou', *Cinquante-naire de l'Ecole Pratique des Hautes Etudes. Mélanges* (Paris, 1921).
45. The views I have summarised, greatly simplifying them in the process, can be found in the following: T. Mayer, 'Königtum und Gemeinfreiheit im frühen Mittelalter', *Deutsches Archiv für die Erforschung des Mittelalters* (1943), a revised version of which is printed in the collection of Mayer's papers entitled *Mittelalterliche Studien* (Lindau and Constance, 1959), and his paper 'Die Königsfreien und der Staat des frühen Mittelalters' in *Das Problem der Freiheit* (vol. II of *Vorträge und Forschungen ... geleitet von T. Mayer*, Lindau and Constance, 1955); H. Dannenbauer, 'Hunderschaft, Centena und Huntari', *Historisches Jahrbuch*, lxxiii/lxxix (1949), a revised version of which is reprinted in the collection of Dannenbauer's papers published as *Grundlagen der Mittelalterlichen Welt* (Stuttgart, 1958); *ibid.*, 'Freigrafschaften und Freigerichte', *Das Problem der Freiheit* (see above).
46. It seems to me by no means established that the conceptions outlined by these scholars could have had the very wide bearing they allege. I am not in any case prepared to believe that in all parts of the Frankish kingdom *census regius* or *regalis* invariably had the origin they assign to it.
47. E. Joranson, *The Danegeld in France* (Rock Island, 1923); F. Lot, 'Les tribus aux Normands et l'Eglise de France au IXe siècle', *Bibliothèque de l'Ecole des Chartes* (1924).
48. F. L. Ganshof, 'Het tolwezen in het Frankisch Rijk onder de Merowingen', (with French summary, 'Le tonlieu dans la monarchie franque sous les Mérovingiens'), *Mémoires de l'Académie des Lettres et des Sciences*, 1958. The same, 'A propos du tonlieu à l'époque carolingienne', *La Città nell' alto medioevo* (Spoleto, 1959; vol. VI of *SSCI*).
49. *Form. Marculfi*, I, no. 8, 'Carta de ducato et patriciatu et comitatu', MGH *Formulae*, pp. 47-8. The patrician in question must have been the 'patrician' who was governor of Provence.
50. My article 'Charlemagne et l'usage de l'écrit en matière administrative', *Le Moyen Age* (1951), translated below, Ch. VIII, attempts to treat the subject in relation to Charlemagne's reign.
51. The credit for highlighting the essential importance of the oral act belongs to A. Dumas, 'La parole et l'écriture dans les capitulaires carolingiens', *Mélanges d'Histoire du moyen âge dédiés à la mémoire de Louis Halphen* (Paris, 1950).
52. See above, p. 90.
53. See above, p. 93f.

54. A fine edition (with German translation) of six of these edicts, which revise or complement the Salic Law, has been published by K. A. Eckhardt, *Pactus Legis Salicae*, II, 2. *Kapitularien und 70 Titel-Text* (Göttingen, 1956), pp. 362 ff. There are important observations on the legislative activity of the Merovingians in F. Beyerle, 'Die beiden süddeutschen Stammesrechte', *Zeitschrift der Savigny Stiftung für Rechtsgeschichte, Germanistische Abteilung* (1956), 136-40.
55. See above, p. 93.
56. See my book on the subject cited above, n. 19. For the texts, apart from those published in new editions, details of which are given in that work, see *MGH Cap.*, I and II.
57. F. L. Ganshof, 'Charlemagne et le serment', *Mélanges d'histoire du moyen âge dédiés à la mémoire de Louis Halphen* (Paris, 1950), translated below, Ch. VII.
58. On the other hand, there are a number of indications that the emperor demanded from the magnates confirmation under oath of their adherence to various dispositions for the succession to the throne: something quite different.
59. *Capitulaire missorum Attiniacense* (854), c. xiii and formula, *MGH, Cap.*, II, no. 261.
60. For what is said in this paragraph, see F. L. Ganshof, *Qu'est-ce que la féodalité?* (3rd edn, Brussels, 1957); the English translation (by P. Grierson, *Feudalism*, 3rd English edn, 1964) and the German translation (by R. and D. Groh *Was ist das Lehnswesen?* (Darmstadt, 1961), amount to new editions, revised by the author.

## VII. Charlemagne's use of the oath\*

THE OATH, as we know, was one of the remedies Charlemagne employed to make up for the deficiencies in the organisation of his realms.<sup>1</sup> Brief accounts of the oath as a legal institution will be found in the various works dealing with the public law of the Carolingian state. Elsewhere, scholars have investigated the possible connections between the oath and the feudovassalage complex.<sup>2</sup> It is my hope that a study concentrating on Charlemagne's employment of the oath may contribute towards a more precise knowledge of the institution itself and to a better understanding of that monarch's reign.

To obtain a clear view of the subject, it is important to realise that the policy pursued in this matter by the great king of the Franks had several successive phases. The earliest texts with a bearing on oaths date from 779 and form part of the capitulary of Herstal, the ordinance which sets down in writing some of the measures intended to strengthen the monarchy following the terrible crisis of 778. But far from figuring as an instrument of government, the oath is there represented as a source of potential danger. Article xvi prohibits gilds, in other words associations concluded through mutual oaths whose purpose was to support members in need of material help, or whose goods had been destroyed by fire or shipwreck.<sup>3</sup> It is not the aim which is considered illicit: associations with the same aims, concluded through unsworn agreements, are allowed. The objection is to the oath. This was partly, no doubt, for religious reasons: it was feared the associates might perjure themselves.<sup>4</sup> But the chief ground for distrust was that the oath forged a bond between the members powerful enough to present a serious threat to public power, should the associates decide to embark on any subversive action. *Missi* sent to tour Aquitaine ten years later are reminded that the prohibition is still in force.<sup>5</sup>