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OLD MEDIA PUT TO NEW USES: LEGAL FORM BOOKS IN CAROLINGIAN EUROPE

WARREN C. BROWN

WHEN WE TALK about “media revolutions” in medieval Europe, we are not talking about processes like those taking place now, in which texts that in the past would have been written on paper and stored on shelves or in files or boxes are moving to digital media and storage. Throughout the European Middle Ages (which I define as stretching from roughly 500 to 1500 CE), people mostly transmitted and stored information by writing it out on scraped and chemically treated sheepskin, that is, parchment. Parchment took over from writing surfaces made of

Map 5.1: Carolingian Europe in the Eighth and Ninth Centuries

plant material, that is, papyrus, in the course of the seventh century (save in Rome, where the papacy held on to it longer). In the thirteenth century, paper wandered in from China via Persia. But Europe would have to wait until the middle of the fifteenth century for something really new that triggered explosive consequences: the printing press.¹ So I will not be discussing in this essay a rapid and complete

I See “Papier,” “Papyrus,” “Pergament” in *Lexikon des Mittelalters*; “Paper,” “Papyrus,” “Parchment” in Vauchez, ed. *Encyclopedia*; Basbanes, *On Paper*; Eisenstein, *The Printing Press*; Buxton, Cheney, and Heyer, eds., *Harold Innis’s History*.

technological transformation. Instead, I am going to discuss some changes in the way a pre-existing medium was used and the ways that these changes, like those that we are going through today—but over a longer period of time—were both triggered by new conditions and at the same time helped to create them.

I am going to focus on documentary record keeping: that is, how people created, transmitted, and stored the sorts of records that were produced in the course of legal transactions or judicial proceedings. And I am going to take us to a particular time and place: Europe in the eighth and ninth centuries. This is the period when Europe was dominated by kings and emperors from the Carolingian house—the most famous of whom is the eponymous Charlemagne (*Carolus Magnus*, r. 768–814).² Why here? Because this period saw a tremendous expansion in the use of writing for administrative purposes, for communicating between the centre and the periphery, and for issuing and responding to decrees and orders. This involved a lot of record keeping. Keeping written records was, of course, nothing new; traditions of using written documents to transmit and preserve information survived in Europe from the Roman period. As is typical of Carolingian rule in other arenas, however, and particularly that of Charlemagne, what had been pre-existing practice was expanded dramatically and put to new uses. This in turn had spin-off effects, as people reacted to the new emphasis on writing, adapted to it, took advantage of it, and thought of new things that writing could help them do.³

In any discussion of documentary culture in this period, we need to confront a central characteristic of early medieval society: the distinction between clergy and laity. By this, I mean the distinction between Christian secular and regular clergy (monks), on the one hand, and everyone else on the other.⁴ The distinction is important because it underlies a long-standing narrative about how the technology of writing was preserved in Europe after the end of Roman rule and how it developed in the Middle Ages. An old scholarly and popular tradition holds that, after the dissolution of the Roman empire in western Europe, it was the clergy

² See for example McKitterick, ed., *New Cambridge Medieval History* (henceforward NCMH), vol. 2 c. 700–900; McKitterick, *Charlemagne and The Frankish Kingdoms*; Riché, *The Carolingians*; Becher, *Charlemagne*; Barbero, *Charlemagne*; Costambeys, Innes, and MacLean, eds., *Carolingian World*.

³ See, for example, Nelson, “Kingship and Royal Government”; Davis, *Charlemagne’s Practice of Empire*, 311–17; Brown, Costambeys, Innes, and Kosto, eds., *Documentary Culture and the Laity*; McKitterick, *Carolingians and the Written Word* and *History and Memory*, especially 5–7.

⁴ Lynch and Adamo, *Medieval Church*, 25–26, 86–87, 100–3; Goetz, “Social and Military Institutions,” 456; *Lexikon des Mittelalters*, vol. 5, s.v. “Laie”; Faivre, *Emergence of the Laity*; Baus, Beck, Ewig, and Vogt, *The Imperial Church*, 334–37.

who preserved the technology and practice of writing, in the only permanent institutions that had survived the wrenching political and social changes of the period: the churches and monasteries. It was monks and clerics who continued to use writing to carry on their business. Members of the laity, in contrast, transacted their business orally; they depended on ritual to validate their transactions, and on the memories of witnesses to secure and “store” records of them. Historians looking for pragmatic writing and record keeping among the laity thus focused, for a long time, on the eleventh century and later. There, they found a slow revolution: the laity gradually picked up writing in response to economic growth, and the concomitant need for accounting, record keeping and communication over long distances.⁵

Scholars of the earlier period have always known about faint traces of lay documentary activity prior to the eleventh century—such as small dossiers of property transactions involving only lay people that later ended up in monastic archives; slate tablets on which records were scratched, and then buried, and later dug up; references in narrative sources to laypeople having documents which no longer survive; and so on. Because these traces are widely scattered in time and place, however, the relevant specialists were generally unaware of what others had. It was very easy, therefore, to view these pieces of evidence as exceptions that proved the rule. Recently, however, students of early medieval documentary culture have come together to look at the evidence comprehensively and to examine the various pieces of evidence in relation to one another. A consensus is building that members of the laity, from all social strata, did in fact continue to use documents from the late Roman period all the way through the early Middle Ages and beyond.⁶ By “use” I do not mean that they could necessarily read them, or more than a few key words in them; “use” means simply thinking documents were important, knowing where to get them, and keeping them so they could be produced again at need.

The evidence for this is so scarce because the survival of such documents depends on the development of an important information storage technology: the archive. Scholars of early medieval Europe have tended to take archives, especially in churches and monasteries, as given, but they should not; archives themselves have a history.⁷ In the eighth century, in response to Carolingian expansion, the Carolingian emphasis on keeping written records, and Carolingian efforts to get

⁵ Brown, Costambeys, Innes, and Kosto, eds., *Documentary Culture*, 9–10 and n. 23.

⁶ Brown, Costambeys, Innes, and Kosto, eds., *Documentary Culture*; an initial and very important impulse in this direction was given by McKitterick, *Carolingians and the Written Word*.

⁷ For the following, see Brown, Costambeys, Innes, and Kosto, eds., *Documentary Culture*.

a handle both on their own property holdings and those of allied ecclesiastical institutions (in order to identify resources of supplies and soldiers), churches and monasteries began trying to gather what had been disorganized and often incomplete collections of documents into coherent and organized archives. Some of them also copied their documents, or at least some of their documents, into books called cartularies (from the Latin *carta*, charter). They did so not only for the king's sake but also for their own, to secure property claims that could be threatened in a rapidly changing landscape of power.

These churches and monasteries naturally collected and stored what was of interest to them: records of their property transactions or those of others that affected their interests, and records of dispute settlements that concerned their rights and privileges. Laypeople appeared in these records insofar as they were involved in these transactions. And because medieval churches and monasteries were very long-lived institutions, it has been their archives, or copies of documents from their archives, that have survived into the present. Laypeople did have archives of their own, bundles of documents which they kept at home or in a local church. But lay families were in general much less stable, so their documents have, for the most part, been lost—save, as I noted above, for a very few dossiers of documents that ended up in an ecclesiastical or monastic archive because the church or monastery had acquired some of their property.

At the same time as all this was going on, something else happened. There is no evidence that it came in response to a top-down directive, but it does seem from its timing to have followed at least indirectly from the general expansion in the use of writing: the people who wrote documents also became concentrated in churches and monasteries. In the early eighth century, many of the scribes producing documents for people outside churches and monasteries appear to have been local priests, and possibly even lay scribes, with varying levels of education and skill. From the mid-eighth century on, however, more and more—and eventually all—of the scribes that we know about came from churches and monasteries. In other words, they were trained professionals. They wrote documents for their own institutions and for people who had business with their institutions, but they apparently also produced documents that the laity in their areas needed in order to carry on business amongst themselves.

Finally, something else occurred, a development I will focus on here and that I can best characterise as a new form of information preservation and transmission: compendia of forms for composing documents and letters—that is, legal and epistolary formula collections.⁸ These are collections of document and/or letter

8 Zeumer, ed., *Formulae*. See Buchner, *Deutschlands Geschichtsquellen*, 49–55; Rio, *Legal Practice*.

Plate 5.1:
A Workaday
Formula Manuscript. The red rubric instructs the user that this formula is for a charter of donation to a church. (Munich, Bayerische Staatsbibliothek, Clm 4650, fol. 1r: Salzburg, 9th century.)

texts with most or all specific information—such as names, places, dates, etc.—removed and replaced with empty pronouns such as “that” or “he/she/it” (Latin: *ille*), “so-and-so many” (*tantus*), or simply with the letter “N” (for *nomen*, name). An example runs as follows (in the translations here and below, the letters A and B always refer to the two principal actors):

Another Document of Sale

To the magnificent brother B (illo) I A (ille). It was agreeable to me to sell to you, and thus I have sold the field N, or vineyard, belonging to me within the boundaries of Saint C (illius) [a monastery] in the place called N (illo), having so-and-so many (tantos) aripennos [a unit of dimension]; that is on the one side fronting the land of D (illius), on the other side the land of E (illius); whence I have accepted from you a price that was acceptable to me, valued at so-and-so many (tantos) solidos [a monetary unit] so that from this day, you should have free power to do with the above-named property whatever you

Plate 5.2: A More Formal Formula Manuscript. Here, each capital letter marks the start of a new formula. (Paris, Bibliothèque nationale de France, ms. lat. 2123, fols. 114r–115v.)

wish, saving the rights of Saint C (ipsius). And if I myself or any of my heirs or any person whatever shall presume to raise any calumny or objection against this sale, let him pay to him against whom he raised the quarrel 15 solidos, and let this sale remain firm.⁹

Plates 5.1 and 5.2 show how these texts appear in two different manuscripts, one rather workaday and the other more formal. Collections of formulae like this survive in about forty manuscripts.¹⁰ The manuscripts are overwhelmingly Frankish

⁹ *Formulae Turonenses*, No. 8, in Zeumer, *Formulae*, 140. Henceforward, all Latin names for the formula collections are taken from Zeumer's edition for ease of reference, though the collections as he has reconstructed and named them are sometimes questionable. All translations are my own.

¹⁰ Rio, *Legal Practice*, 241–71. “About forty”: the number here depends on what one counts as a formula and what one counts as a collection. Rio lists the thirty manuscripts that contain

(though there are a couple of outliers from Christian Spain).¹¹ They range in date from the eighth century to the tenth, but they come overwhelmingly from the late eighth and the ninth centuries: that is, the period when Carolingian power and Carolingian civilization were at their height. Most of the texts in them stem from the same period. Some, however, can be dated on linguistic and other internal evidence to as early as the sixth century. It appears that the people who compiled the formula collections, as they gathered models or language from documents that they had available, included some that were already quite old.

Formula collections appear sometimes in manuscripts all by themselves. More often, they are bundled with other kinds of texts: church law, Roman or Germanic law, sermons, teaching texts (such as basic writing and reading instructions and catechism questions), sometimes even music. Whatever their context and content, however, the formulas are characterized by a clear intent to reuse or learn from the text included in them, either as frameworks for producing new documents, as sources of formulaic language, as teaching texts, or simply as records of really interesting kinds of transactions.¹² It is not always possible to say where a given manuscript came from; handwriting, decoration, or other manuscript characteristics might point to a general region, such as Francia (northern France), and idiosyncrasies in language might do the same; but in many cases it is impossible to say more than that. However, roughly half of the manuscripts contain evidence that points quite clearly to churches or monasteries as the places where our formula collections were compiled and/or stored, and to or from which they travelled: handwriting and other codicological evidence, the kinds of texts that the manuscript includes, and/or specific references to particular institutions, places, or people in formulas or elsewhere in the manuscript. This in itself is noteworthy, and it also suggests that many (if not most) of the formula manuscripts which we cannot anchor in any particular context most likely originated in clerical or monastic milieus.¹³

Then as now, it was important to use the proper form and language when drafting the written record of a legal transaction or proceeding. Doing so reinforced the

what one might safely call real collections. There are other manuscripts, however, that contain singletons, or a few formulas, copied in different contexts, written in empty spaces between texts, in margins, etc. Still others contain collections of actual document or letter texts that may have been intended to serve the same purpose as formulas.

11 The so-called 'Formulae Visigothicae' from the seventh century, as well as a tenth century collection from Ripoll in Catalonia: see Zeumer, *Formulae*, 572–95; Gil, ed. *Miscellanea Visigothica*; Zimmermann, "Un formulaire."

12 Rio, *Legal Practice*, 43–57.

13 Brown, "Die karolingischen Formelsammlungen," 98–99.

record's legitimacy and helped to validate the transaction or proceeding that it recorded and also protected it from later challenges. That documents served this function is evident in the number of surviving judicial records in which they were presented as proof.¹⁴ At the same time, drafting a document in the proper way ensured that it would *sound* right. This was a legal world in which writing was inextricably intertwined with speech and with public performance.¹⁵ Both surviving documents and formulas reveal parties to transactions or other legal processes—as well as authority figures overseeing them—making oral statements and publically carrying out scripted ritual procedures (such as handing over a staff to symbolize the handing over of property, or swearing an oath in a church to attest the truth of a statement). Witnesses were assembled and their names recorded in writing at the end of documents, so that their memories of what they “had seen and heard” could be drawn on in the future. In some cases, documents themselves formed part of ritual processes, as when documents recording gifts of property to a church were placed on the church's altar, or when a document was lifted up and displayed to the assembled witnesses. But documents were also read out loud. In many cases, we can see records of transactions, after the transactions had been carried out, being brought to some sort of authority-bearing assembly for validation, and being read out loud as part of the process.¹⁶ Records of transactions witnessed by a king were often produced after the king had died and brought before his successor for confirmation—and read out in public. The same could occur in disputes, when a transaction was challenged and the defendant had the original document read out as part of his or her defence. Hearing the right forms and language would have convinced or persuaded the assembled audience, some of whom might not have been able to read more than essential parts of a document, or any of it at all, that it was valid.

Manuscripts containing legal formulas enabled scribes who did not know the relevant documentary forms and language by heart, or who were faced with an unusual situation, to find examples and models on which to draw. They may seem like a prosaic place to look for a medieval “media revolution.” However, formula collections are a genre that shows up at a particular point in time because there was a new and pronounced interest in them, which coincides with the other changes I have just laid out. Many if not most of the collections were produced and kept in churches and monasteries, at the very time when the process of producing documents, and preserving the knowledge of how to produce them and what they

¹⁴ See, for example, Innes, “Archives,” 178–81, and “On the Material Culture,” 310–12.

¹⁵ See Innes (as above); Mostert and Barnwell, *Medieval Legal Process*.

¹⁶ Brown, “On the *Gesta municipalia*.”

Map 5.2: The Geographical Distribution of Extant Formula Manuscripts.

Place names with an asterisk mark manuscripts that have been localised. The rectangles enclosing place names in capital letters mark manuscripts that have been assigned to a general region. The big bold “Francia” in the middle tells us that many of the manuscripts show up in modern library catalogues simply as “Francia, ninth century.”

were needed for, was becoming the preserve of churches and monasteries and their trained scribes. They were not simply a teaching resource or aid to memory. They clearly reflect the fact that scribes wanted to know how to draft their documents following more or less common forms and with a more or less common vocabulary. They provide evidence for a new interest in keeping copies of forms that would help scribes make their documents more consistent with documentary practice in other parts of the Carolingian Empire, as well as more consistent with each other across time.

The formula collections thus *reflect* a set of common assumptions across the Carolingian world about the situations in which documents might be necessary, and a common repertoire of ways to record such situations in writing. Many general types of formulas show up over and over in manuscripts widely scattered in space and time, and their formulaic structure and language are remarkably similar. At the same time, these collections helped to *create* this common culture of documentation by spreading these models and by constraining the options available to the scribes who resorted to them. Nevertheless, this media revolution also produced a great deal of site-specific variation. These differences tell us that while the formulas reflect a set of common needs and assumptions about document use across time and space, people responded to these needs in creative and often idio-

Figure 5.1: In this graph of the temporal distribution of extant formulary manuscripts, the length of the lines indicates the temporal bounds within which a given manuscript has been dated. “X” represents a precise dating.

syncratic ways. While the formulas therefore played an important part in forging the cultural unity that pulled and held the Carolingian world together, at the same time they tell us about local responses to this macro-level trend.

Insofar as palaeographers have been able to say anything at all about our manuscripts, most are from the western part of the Frankish world. Not all, however. There are quite a number from the east: Austrasia (which covered what is now Belgium and western Germany), Bavaria, and Alemannia (eastern Germany, Switzerland, Alpine Italy, the Austrian Tyrol, and Alsace).¹⁷ A few date from the eighth century, most are from the ninth century, and another few have been dated to the tenth century. Then they disappear. So we have a clear, geographically and temporally-bounded burst of interest in producing and using these collections (insofar as one can talk about a couple of centuries as a “burst”).

What kinds of texts do our manuscripts contain? I have already noted that almost all surviving documents from this period were preserved in the archives of churches and monasteries. They naturally deal overwhelmingly with matters in which churches and monasteries had an interest: property transactions, dis-

¹⁷ Rio, *Legal Practice*, 241–71.

putes over property rights among churches and monasteries or between churches and monasteries and laypeople, and so on. The formula collections thus contain models for all of these situations: models that match, in form and content (more or less), the surviving documents. But these church-centred formulas are only a subset of a much broader body of documentary forms that encompass a great deal of independent activity by members of the laity. We have models for gifts of property, property sales, and property exchanges among laypeople; models for wills and inheritance arrangements; models for records of judicial hearings that deal with competing property claims but also with theft, robbery, and homicide. We have records of the actions of royal courts; examples of royal orders; and letters of various kinds that deal solely with laypeople's affairs, and which include formulas useful for bishop, abbots, kings, counts, and so on.

Examples include a formula in which a grandparent gives property to his or her grandchildren:

Charter for grandchildren

To my sweetest grandsons B and also my granddaughters C, I in the name of God A. It is right that, for the service and kindness that you have shown me both day and night, I give you something of my property; thus I have done: therefore I give and transfer to you through this letter of cession or with a festuca [a symbolic staff] and with a handshake (? andelangum) some of my property in the pagus [an administrative district] D[...].¹⁸

Another, in which a man publically swears that he had not in fact tried to steal another man's horse:

Beginning of an oath

Record of an oath, how and in whose presence a man named A entered into the city of Angers, on this day, that is the day N, in the month N, in the basilica of the lord C. Having sworn, he said, by this holy place and all the divine things that are done here which are offered fully to God: 'concerning the matter for which the man B sued me, namely that I stole his horse and kept it by theft, I swear this, that I never stole the horse about which he has accused me, nor was I complicit in this theft, nor have I ever kept this horse by theft, and I will not give you anything further except this unchallengeable oath, which it was ordered that I perform and that I carried out according to the laws.' These are those who heard this oath; they affirmed below with their hands.¹⁹

¹⁸ *Formulae Salicae Lindenbrogianae*, in Zeumer, *Formulae*, No. 14, 276–77.

¹⁹ *Formulae Andecavenses*, in Zeumer, *Formulae*, No. 15, 9–10.

And another, in which a king issues an order in a case concerning unjust property seizure:

Letter from a king to some layman for doing some justice

The king by the Grace of God A, the illustrious man, to the magnificent man B. A certain one of our faithful followers named C, coming into our presence, told us that you took from him unjustly his inherited property, that afterwards you kept it unjustly, and that he has not able to obtain any justice from you about this. Therefore we sent this present letter to you, by which we fully order that, if it was done thus to him as he related to us, you return to him all property which belongs to him, whatever you took unjustly from him, and you reinvest him with all of it according to the law, if you wish to have God's grace and ours. If you act otherwise, and you have anything to say against him, then you yourself, through this named letter, on the day N of month N, together with him, are to come into our presence to give complete and legal response to that man concerning this matter.²⁰

Almost all of the collections share these general categories of formula, though the balance among them is different from collection to collection.

However, these formulas are not blind copies of each other, but rather versions of the same kinds of documents that often deal with different specific situations and different procedures for dealing with them. The following examples of this particular phenomenon come from a category of formulas that I call "wergeld receipts."²¹ *Wergeld* is a Germanic word for the blood price (literally, "man money") that was paid to compensate the kin of someone who had been killed, by the person who had killed him. These formulas represent written verification that the killer had paid and was to be troubled no further about the matter. Here, one man charges another with having killed his father or (alternatively) his brother. The accused cannot deny the charge and has to pay compensation. He then gets this document protecting him from further challenge about the killing:

Security

There was not a little but rather the greatest discord²² between A and B. Coming before D and E, A raised a complaint against B, saying that he had in

²⁰ *Formulae Marculfinae aevi Karolini*, in Zeumer, *Formulae*, No. 18, 120.

²¹ Brown, "Wergeld."

²² The rather dramatic phrase "There was not a little but rather a great deal of discord between ..." (lit: "Not a little but the greatest discord was exchanged between ..."/*Non minima sed maxima verteretur discordia inter...*) appears only in the formulas from Sens, in this formula and in *Cartae Senonicae* No. 51, discussed below (n. 31). Both of these are securities for the payment of compensation. Since the phrase is identical in both formulas, it is most

*an evil manner slain his father, or his brother, C. He was asked by those men if he had carried out or perpetrated this matter or not, and they said that he should in their presence make a declaration. But B was not able to deny this matter. It was thus judged by those men that he ought to pay compensation, as was the law, which he did in their presence. And I have asked this security to be made and affirmed for this B, that we ought not, neither I myself or any of my heirs nor anyone whomsoever, bring or raise any malicious actions or claims at any time concerning the death just discussed nor concerning that compensation. If we should attempt this, let it have no effect, and moreover let us pay to you as a penalty, together with a share for the fisc [i.e., the royal treasury], so-and-so many ounces of gold, and let this present security remain firm for all time.*²³

In this untitled example, one man charges another with having killed his brother. Apparently, the accused tries to defend himself; it takes the intervention of some local worthies to negotiate peace and work out the payment of compensation:

*For there was complete discord between A and B. A himself came to the villa N, in the place which is called N, and laid an accusation against B, saying that he had killed and slain his brother named C in an evil manner. While thus they fought amongst themselves in another manner, good men intervened. They arranged with both parties to reestablish peace and concord. And they agreed, that for redeeming and making good the offense, B should pledge to pay so and so many solidi as compensation. I have asked this security to be made and affirmed [...].*²⁴

Some formulas were plainly drawn from records of real situations that a monastery or church's scribe had recorded. The scribe had apparently decided that a specific situation was one that might come up again, or that was particularly interesting and worth knowing about, or contained formulaic language and/or descriptions of procedure that might at some point be useful. Every once in a

likely a stock formula preserved in the Sens charter tradition—though in these cases (the killing of a father or brother, an assault on a wife and the killing of a daughter) it is probably an accurate reflection of social turmoil. The only similar stock phrase occurs in a group of formulas for divorce charters, all in Zeumer, *Formulae: Formulae Salicae Merkelianae*, No. 18, 248; *Cartae Senonicae*, No. 47, 206; *Formulae Turonenses*, No. 19, 145–46; and *Marculfi Formulae II*, No. 30, 94. It reads, identically in all of these formulas, “Since between A and his wife B not charity according to the will of God but rather discord reigns ... (*Dum inter illo et coniugia sua illa non caritas secundum Deo sed discordia regnat ...*).

23 *Formulae Senonenses: Cartae Senonicae*, in Zeumer, *Formulae*, No. 11, 189.

24 *Formulae Extravagantes*, in Zeumer, *Formulae*, No. 1/8, 537–38.

while, we find a dead giveaway for this scenario: a scribe, for some reason, copied a real document—complete with its situation-specific information—into an otherwise anonymized formula collection. This indicates that the scribe was not interested in the specific contents *per se*; rather, he saw the resolution of this situation as a model or resource for the future. In this example from the monastery at St. Gall (Switzerland), which survives in a tenth-century formula collection from somewhere in eastern Francia, a man named Otolf contends with a man named Undolf over a piece of woodland:

Charter of reconciliation

*Let it be known to all, both present and future, that a certain man named Otolf was often sued in the public court (mallus) by another more powerful man (potentiori) whose name is Undolf, because that Undolf sought a portion of the woodland which Otolf held in his power by hereditary right. Since this had happened often, it was done with the consent of both, that the above named Otolf, for the resolution of this discord, gave to Undolf, for the sake of reconciliation, 5 jugos [a measure of land] in the place which is called Chobola, which Undolf accepted, under the condition that he henceforward make no claim or suit concerning the above named woodland, nor try to take any more of it into his power [...].*²⁵

Other examples, while they do not include names, must have been copied from documents that recorded actual cases because the situations each describes are distinctive. Why exactly they were included must remain unclear; either the scribe thought the situation might recur, or the document contained potentially useful language.

A scribe might also have found a particular case interesting, and wanted to preserve a record of it. In the following text, for example, the basic situation is a common one: someone accused of harming another person cannot pay compensation for the harm, and is therefore forced to give himself into the unfree service of his accuser. However, the accusation itself is unique among the formula collections, because a man is charged with failing to guard a storeroom that had been entrusted to him:

Security concerning keys

It is patently known to many men how, in the name of God, A, coming into a judicial assembly (placitum) before men who were as good as they were many, accused a man named B, saying that he had commended to him, by giving him his keys, a cellar or chamber or granary, and whatever he had left there,

25 *Formulae Sangallensis*, 1. *Formulae Sangallensis Miscellaneae*, in Zeumer, *Formulae*, No. 5, 382.

*that is, gold, silver, cloth, arms, wine, grain, and foodstuffs, for the purpose of guarding and protecting [it], and that he [B] had brought this property into wreck and ruin. That B stood up in their presence and was unable to deny this matter; but rather confessed that the above named property was lost and wrecked through his action. Then it was judged that he compensate and make amends for that property; but B had nothing with which he could compensate and make amends for that property... since I [i.e., B] did not have the price of that property, which I should compensate and for which I should make amends...while I shall live, I should serve you [i.e., A] in public servitude ...*²⁶

The last few lines of the entry reflect the frequent practice of shifting into the first person when one party formally commits to an action.

Women play interesting roles in some of these formulas. The next couple of examples reflect a belief commonly expressed in a great many early medieval texts: men kill openly and honestly, while women are sneaky and underhanded about it. In this untitled formula, a woman swears an oath that she had not, in fact, tried to poison a man:

*Notice concerning how, and coming into whose presence, a woman named A in the pagus N, in the public court (mallus), in the basilica of Saint N, before them C and them D and many other good men, who have affirmed [this] below, placed her hand on the sacrosanct altar of Saint N and swore thus: 'This I swear by this holy place and by the highest God and by the powerful Saint N, concerning that of which B accused me, before the magnificent man E and other good men, saying that I had prepared evil herbs and had given them to him to drink, from which he grew ill and ought to have lost his life: I never prepared evil herbs or evil potions or gave them to him to drink, from which he became infirm and ill and should have lost his life; and I say nothing more about this matter than this and I prove this by this oath [...].'*²⁷

In another case, a woman is charged with having tried to kill a man by sorcery, but fails to show up to answer the charge:

Notice of a default: how, and in the presence of whom, the man A and more-over these people named C and D and their mother named E, together with their maternal uncle named F, attended his judicial hearing (placitum) in the city of Angers, on the date N, according to the judgment of the illustrious count G and his assessors. He [i.e., A] said that a woman named B had killed their father named H by sorcery. These people named above remained at

²⁶ *Formulae Salicae Bignonianae*, in Zeumer, *Formulae*, No. 14, 233.

²⁷ *Cartae Senonicae*, in Zeumer, *Formulae*, No. 22, 194–95.

*their placitum in person, according to the law, until evening. But this woman neither came to the placitum nor sent a legate in her stead who would have spoken for her. Therefore it is necessary for the above-named people to seek this notice, affirmed by the hands of good men, which they did.*²⁸

However, women are not always represented as sneaky. In this blood price receipt, a woman is forced to admit that she had hit a man's wife in the knees and stolen and killed their daughter:

*There was not a little but rather a great deal of discord between A and B. Coming to the place N before good men, he [A] declared against the accused in his suit or rather in that of his wife C, that she B had struck her [i.e., his wife's] knees and moreover had abducted their daughter named D and killed her. She B was not able to deny this suit. Then it was judged thus by those good men that she pay compensation, as was the law; this she did in the presence of the assembly and she gave her unfree servant (servus) named E or other of her goods as compensation to him or rather to his wife C, which was well agreeable to them. Therefore the above named A and his wife C asked that this security be made and affirmed for her [...].*²⁹

How were the various kinds of formula texts actually used? We have no examples of someone copying out a complete formula and inserting appropriate names, places, and dates into it. But formulas dealing with ecclesiastical matters share much of their language with extant ecclesiastical documents; they look similar, deal with similar kinds of transactions in similar ways, and use similar or even identical vocabulary and turns of phrase. This might indicate that some ecclesiastical documents were indeed derived from formulas. We also know, from the evidence discussed above, that the influence also went the other way, that at least some formulas were adapted from actual documents. There is also a third possibility, that there was a common repository of formulaic language circulating among communities throughout the Carolingian empire, and that scribes drew on this when they copied out their formula collections and when they drafted real documents.³⁰

Indeed, we do have some real documents that tell us for certain that, at least in the places where these documents were produced, formulas were in fact used to help draft them, and we can see how this was done. In the Bavarian cathedral church and monastery at Freising (see Map 5.1), an interesting charter was copied

²⁸ *Formulae Andecavenses*, in Zeumer, *Formulae*, No. 12, 9.

²⁹ *Cartae Senonicae*, in Zeumer, *Formulae*, No. 51, 207.

³⁰ See Rio, *Legal Practice*, 27–33.

into a bound collection of the monastery's documents by a monk named Cozroh.³¹ On 15 January 769, one Uurmhart gave property to a church dedicated to St. Mary in a place called Rota. The scribe appears to have used a formula for his template because a few names and dates are missing from the charter, and are marked only by the placeholder pronouns *illa*, *ipsa*, whose referents therefore remain ambiguous. In some cases, these pronouns could be serving as definite articles: *ad ecclesiam illam ad Rota in honore sanctae Mariae constructa*, for example, might well mean simply: "to that (*illam*) church at Rota built in honour of St. Mary." But in one case, it is clear that the name of the property being gifted is missing: "[...] that is, a third part of all of my property in the villa N [...]" (*hoc est in villa ipsa de omni rem mea tertiam partem*). Cozroh's exemplar, then, had not fully completed the template of the formula on which it was based.

Another telling example comes from a group of formulas, compiled in the later eighth century, whose language appears to stem from somewhere in the territory of the Salian Franks (the so-called "Salt-Water" Franks, who originally lived on the North Sea coast, west of the Rhine river, and who dominated the Frankish realm before the Carolingians took over: see Map 5.1).³² In the ninth century, these formulas were copied into several manuscripts which, with one exception, can be placed in Bavaria (the exception is eastern or southern).³³ The Austrian historian Heinrich Fichtenau has argued that, starting in 799, language similar, or even identical, to language in these formulas shows up in real documents from the Bavarian monastery at Mondsee. These similarities suggest that, in some cases, Mondsee scribes used the formulas as templates. However, they did not use them verbatim; they took a formula's general framework, or pieces of various formulas, and adapted them to their specific needs.

Here is one example, from the year 816; the language matching that of the corresponding formula is given in italics:

31 Munich, Bayerische Hauptstaatsarchiv, HL Freising 3a, fols. 33r–34r; Bitterauf, ed., *Die Traditionen*, vol. 1, No. 29 (Freising, ca. 824), 56–58.

32 *Formulae Salicae Lindenbergianae*, in Zeumer, *Formulae*, 265–84; Buchner, *Rechtsquellen*, 53–54; Rio, *Legal Practice*, 101–4.

33 Munich, Bayerische Staatsbibliothek (BSB), Clm 4650, late 9th century (Salzburg?); Copenhagen, Kongelige Bibliotek, Gl. Kgl. Saml. 1943, end of the 9th century (Francia: east or south?). The other manuscripts consist of a group of fragments from Regensburg whose texts were copied in the first half of the ninth century, found in later book bindings; and a lost Bavarian collection that fortunately was partially copied out in the eighteenth century by one Frobenius Forster; see Rio, *Legal Practice*, 101, 103–4, 106–7, 242–43, 247–48, 251–52; Bischoff, *Salzburger Formelbücher*.

To the illustrious lord and brother in Christ Lantpehrt, abbot of the monastery at Mondsee, which is built in honor of St. Michael the archangel, and where the venerable man archbishop Hilipald is seen to govern. Wherefore I in the name of God Kerpald, considering the fear of God and on account of the reward of eternal good, therefore give to that above named monastery all property from my inheritance, because I do not know whether the lord God will deign to grant to me a son. If a son should be born, I will give [property] to him just as I wish; if my wife and I should not bear a son, once more I give and transfer all of my property, that is, in the pagus (district) of Mattiggau in the place called Pfongau, with its farms, with houses, buildings, dwellings and yards (curtiferis), with waterscapes (vvadriscapis), arable lands, both cultivated and uncultivated, forests, meadows, pastures, fields, mills, dependencies, appurtenances, and the unfree workers (mancipii) dwelling there as well as dependants (aspitientibus) of both sexes, and property that is not specified, entirely and completely, and whatever can be declared or named, whatever is seen to be my property and dominion, everything and from everything, both from my own property and from what I have purchased and whatever I have acquired in that place, I give, transmit, and transfer in perpetuity in all ways to that above named monastery in perpetual dominion, so that you have, hold, and possess [it], and so that with Christ's favor you have control in every way. And if anyone henceforward, which I do not believe will occur, either I myself, which God forbid, or anyone from among my heirs or any other person whatever, who shall attempt to act against this charter of donation or shall wish to violate it by raising a suit, let them pay double that amount which at that time those properties are determined to be worth, and let him in no way succeed in claiming that which he claims, but rather let this present transfer, affirmed as much by me as by the different hands of good men, remain all the more firm and secure. Many witnesses [i.e., there were many witnesses present]. In the third year of the reign of the lord emperor Louis, the 9th indiction [a late-Roman dating cycle].³⁴

This charter uses language drawn from the formula for its general structure, in order to anchor the transaction in an accepted framework. The text departs from the formula when it needs to record information specific to this particular transaction: to whom the property is being given, by whom it is being given, under what particular conditions it will be given (i.e., only in the case that the donor does not have a son), where it is located, and the specific penalty due from anyone who challenges the gift.

³⁴ Rath and Reiter, eds., *Das älteste Traditionsbuch*, No. 52/2, 155–56; *Formulae Salicae Lindenbrogianae*, in Zeumer, *Formulae*, No. 2, 267–68.

Map 5.3: The Abbey of Redon and the City of Tours

Clear evidence for direct communication between a formula and actual documents of practice also comes from Brittany, specifically in a cartulary from the abbey of Redon (see Map 5.3).

The cartulary begins with documents from the first half of the ninth century. Several open with rather dramatic and apocalyptic language, as in this example from the year 834:

With the end of the world drawing near and disasters increasing, as is now manifested by true signs, I therefore, Ratuili, in the name of God, considering the gravity of my sins and recalling the goodness of God in saying 'give alms and all things are made clean for you' [Luke 11:41], trust that if we give something from our properties to the places of the saints or to the support of the poor, we will because of this charity, without doubt, be rewarded with eternal blessedness. I indeed, confident in the Lord's great mercy and pity, wish to be given in perpetuity, through this letter of transfer, to those monks dwelling and following the rule of St. Benedict in the monastery called Redon [...].³⁵

Language identical to this appears in a collection of formulas from a city upstream from Redon on the river Loire, namely Tours; Redon was under the jurisdiction of Tours' archbishop (see Map 5.3). The Tours collection was probably put together in the mid-eighth century. The relevant formula is in two parts, the second of

³⁵ de Courson, ed., *Cartulaire*, No.. III, 3.

which is the prologue to a complete formula for giving property to the monastery of St. Martin in Tours:

- a. *With the end of the world drawing near and disasters increasing, as is now manifested by true signs, I therefore N, in the name of God, considering the gravity of my sins and recalling the goodness of God in saying, 'give alms and all things are made clean for you' [...].*
- b. *If we give something from our properties to the places of the saints or to the support of the poor, we trust, without doubt, that we will because of this charity be rewarded with eternal blessedness. I indeed, confident in the Lord's great mercy and pity, wish to be given in perpetuity to the basilica of Saint Martin [...].*³⁶

In the version of the text used in Redon, these two separate formulas are combined into one prologue. This shows, once more, how formulas and formulaic language were used: the formulas were broken apart or combined, adapted or spliced into documents, to fit particular circumstances and needs.³⁷

36 *Formulae Turonenses*, in Zeumer, *Formulae*, No. 1ab, 135–36.

37 The apocalyptic language in these formulas, and in the surviving Redon charters which draw on them, begs the question of whether it reflects any real sense that disasters were increasing and the apocalypse was near. Such language shows up most frequently in charters from the two years following the monastery's foundation in 832, that is, 833–834. I can find nothing untoward going on in Brittany during these years. The 830s were a period of relative stability following major Frankish invasions in 818 and 824, when the Breton leader, Nominoe, ruled at least nominally as a representative of the Frankish monarchy. However, things were not at all stable in the Frankish empire itself; the 830s saw the beginnings of the civil wars between the emperor Louis the Pious and his sons, and among his sons, wars that would tear the empire apart in the following decade. A Redon charter from June 834 notes this fact. It records a gift to Redon by Nominoe himself and opens with our formula, but inserts the phrase “considering the conflicts and tribulations which our lord the emperor Louis is having” (*considerans querelam ac tribulationem quam habet domnus noster imperator Ludouicus*). Nevertheless, I think that the language is formulaic, rather than a response to real conditions. It continues to be used in Redon throughout the ninth century, though with diminished frequency; there is even one example from the early tenth century. Gift charters that use it appear alongside other gift charters that do not use it. This suggests that it was simply one way of expressing a motive for making this sort of pious gift. The fact that this language appears in a Tours formula collection from almost a century earlier strengthens this conclusion, indicating that it was probably picked up from a still older formulaic tradition. If I were to hazard a guess, I would say that the burst of Redon charters using the language in 833–834 reflect the point at which the formulaic material from Tours arrived at the monastery and was adopted there. On Redon and its cartulary, and their historical context, see Davies, *Small Worlds*.

Finally, we have internal evidence that the formulas were intended to be used: directions for how to use them. Some brief instructions provide options for replacing one kind of actor with another, or tell a scribe to insert well-known boilerplate text into an obvious spot—as in a formula for an exchange of property between a bishop and an abbot, where the text first gives a formulaic list of the kinds of property to be transferred by the bishop to the abbot and then, when it gets to the corresponding place for the abbot's transfer to the bishop, starts the list but then notes simply: "and the rest, just as is given above" (*et reliqua, sicut superius insertum est*).³⁸ Other instructions are more broad. In the following example, a man comes forward and charges another man with holding property that belonged to him. The formula begins with a statement of legal principle:

A record framed by the laws

Roman law demands, for the utility of the human race, that 'when an unjust appeal by whomever is acknowledged, let the costs, which after the appeal the accuser compelled his adversary to pay, be returned by the accuser not simply but fourfold.' Therefore I in the name of God, A, so that it not be unknown, declare in a public judicial process, before the illustrious man C and the other men, whose names have been inserted below, in the city of Tours, that you named B are possessing in an evil manner some places called N, situated in the pagus N, which are now owed to me by legitimate succession. You have refused to show up, unless, just as the law teaches, I confirm a document for you concerning the seizure and the [required?] compensation [...] And to take care of this entire matter, I have affirmed this statement with my own hand and I have required that it be confirmed by good men.

The primary actor A has apparently just come into his inheritance and is claiming property that he thinks is his from someone else (B), who has been holding and using it. B has refused to show up in court unless A certifies in writing that, if he loses his suit, he (A) will pay B's costs, as the law requires. But then we get a directive, followed by a second prologue:

*And if the accusation concerns homicide, let the text be filled in with this statement: 'Whosoever shall strike another with the intent to commit the dangerous offense of homicide or with deadly hostility, let him not be heard first by judges, but rather consigned to undergo a punishment similar to that which intended to inflict [...]'.*³⁹

³⁸ *Formulae Salicae Lindenbrogianae*, in Zeumer, *Formulae*, No. 5, 270.

³⁹ *Formulae Turonenses*, in Zeumer, *Formulae*, No. 29, 152.

Both alternative prologues identify the document's purpose by laying out the law that should govern the process. Evidently, the scribe who copied out the formula thought that a document covering this stage of a homicide suit would be needed often enough to make a formula useful, and that he could most efficiently present it by tacking on an optional prologue which reframes the preceding formula for an inheritance dispute.

All of these examples tell us, unequivocally, that people who produced documents were interested in having formula collections, and that they intended to use them. Equally important, they not only wanted their documents to follow the standard formulas that lent them legitimacy, they also wanted to use the same or similar formulas that were being used elsewhere in the Frankish empire. In other words, the forms and hence the standards of legitimacy for written records were being regularised across the Frankish world. We know this because formula collections, as well as individual formulas, travelled—sometimes over very long distances and over considerable spans of time. In some cases, we can see what look like starbursts, where the arrival of one formula collection has triggered a chain of copying initiatives that moved out in different trajectories over time.

The earliest formula collection that we know about was actually compiled before the Carolingian period. It was put together by an elderly monk named Marculf, most likely in the second half of the seventh century, somewhere near Paris.⁴⁰ We know who wrote it, and why he wrote it, because Marculf helpfully tells us: in a prologue, he says that he compiled the collection at the request of his bishop, for the education of the young—in other words, to help train student scribes in the craft of writing documents. Marculf's original manuscript no longer exists; we only know about his collection because it was copied, complete or in parts, into a battery of Carolingian manuscripts. And because the arrangement and contents of these manuscripts overlap in many instances, we can work backward toward what Marculf's original collection almost certainly looked like.

By the beginning of the eighth century, we see that this local collection of formulas for students had attracted a great deal of attention. Seven manuscripts spanning the eighth and ninth centuries, from both the western and eastern parts of the Frankish world, contain Marculf's collection, either complete or in parts (see Map 5.4).⁴¹ The number of copies and the other contents of the manuscripts

⁴⁰ *Marculfi Formulae*, in Zeumer, *Formulae*, 32–112; Uddholm, *Marculfi Formularum*; Rio, *Legal Practice*, 81–101; Rio, trans., *The Formularies*.

⁴¹ "Complete" is a relative term; even these manuscripts are missing a few of the Marculf formulas here and there: i.e., Paris, Bibliothèque nationale de France (BNF), MS. lat. 10756 (9th century, Francia); Paris, BNF, MS. lat. 4627 (shortly after 818?, Francia). Incomplete:

Map 5.4: The Marculf Formulary Diaspora.

Black indicates a complete copy, light grey a selective one.

into which they were copied—as well as general structural and linguistic similarities between Marculf formulas and extant ecclesiastical charters that emerge at about the same time—indicate that they were being used to help draft actual documents as well as to teach students.⁴²

The Tours formula collection from the second half of the eighth century attracted similar attention (see Map 5.5).⁴³

Copenhagen, Kongelige Bibliothek, Coll. Fabr. 84 (mid-9th century Francia); Leiden, Bibliotheek der Rijksuniversiteit, Voss. Lat. 0.86 (turn of the 10th century, Trier?); Leiden, Bibliotheek der Rijksuniversiteit, BPL 114 (8th or 9th century, Bourges?); Paris, BNF, MS. lat. 2123 (8th or 9th century, Flavingny?); Munich, BSB, Clm 4650 (see n. 33 above). The so-called 'Formulae Salicae Merkelianae' (Zeumer, *Formulae*, 239–64) contains a number of texts whose language matches that of several Marculf formulas: Vatican, Bibliotheca Apostolica Vaticana, Reg. Lat. 612 (end of the 9th century, northern Francia?). See Rio, *Legal Practice*, 92–101.

42 Rio, *Legal Practice*, as above and 27–33; Rio, trans., *The Formularies*, 25–28, 104–23.

43 Complete: Warsaw, Biblioteka Uniwersyteka, 1 (first half of the 9th century Tours); the Tours formula section of Paris, BNF, MS. lat. 10756 (9th century, Francia); Paris, BNF, MS. lat. 4409 (end of the 9th century, northern Francia). Incomplete: Copenhagen, Kongelige Bibliothek, Coll. Fabr. 84 (as above); Paris, BNF, MS. lat. 2123 (as above); Vatican, Bibliotheca Apostolica Vaticana, Reg. Lat. 852 (9th century Francia); Vatican, Reg. Lat. 1050 (mid 9th century, Francia); Paris, BNF, MS. lat. 4405 (9th century, western Francia). The *Formulae Salicae Merkelianae* (as above), contains one formula (No. 4ab) drawn almost entirely from Tours 1b. See Depreux, "La Tradition," 59–61; Rio, *Legal Practice*, 112–17.

Map 5.5: The Tours Formulary Diaspora.

Black indicates a complete copy, light grey a selective one.

There are also smaller bursts, such as one surrounding the collection of formulas based on documents from the region of the Salian Franks, discussed above. More or less the same group of formulas shows up complete in two late ninth century manuscripts from eastern or southern Francia and southern Bavaria respectively, and partially in two more ninth-century Bavarian manuscripts.⁴⁴

Sometime we can get a glimpse, or at least a hint, of a transmission vector. To stick with these Salian formulas: if we believe the evidence from Mondsee, discussed previously, they apparently showed up in Bavaria towards the end of the eighth century. We know that they were copied in the decades that followed, together with some formulas from Marculf, into at least three Bavarian manuscripts. One of these, from the late ninth century, came from the area around Salzburg, if not from Salzburg itself.⁴⁵ The region in which these formulas apparently originated includes the monastery of St. Amand (see Map 5.6).

This is where a Bavarian aristocrat named Arn, trained at the church and monastery in Freising, was abbot. In 785, Charlemagne named Arn bishop and then archbishop of Salzburg. Since this is only about a decade and a half before the first

⁴⁴ Complete: Copenhagen, Gl. Kgl., Saml. 1943 (see n. 41); Munich, BSB, Clm 4650 (see n. 33). Partial: the group of fragments from Regensburg and the lost collection copied by Frobenius Forster (referred to in n. 33).

⁴⁵ Munich, BSB, Clm 4650 (see n. 33 above).

Map 5.6: The Transmission of the Salian Formulas.

Black indicates a complete copy, light grey a selective one.

evidence for the formulas' use in Bavaria, and since we have a major manuscript of the formulas from Salzburg or somewhere nearby, the conclusion lies near at hand that Arn, or someone in his entourage, brought the formulas from St. Amand to Salzburg.⁴⁶ Arn was one of the most visible figures in Charlemagne's realm; he actively participated in and supported Carolingian imperial power and its expansion into his home region of Bavaria.⁴⁷ If he was the transmission vector for our formulas, their migration into Bavaria and subsequent repeated copying suggests an intention to revise the redaction of documents and bring the training of Bavarian scribes into conformity with Frankish documentary practice.

Another less solid, but still plausible, example concerns the formula collection from Tours. Substantial parts of this collection were copied, sometime in the second half of the eighth century, into a formula collection compiled in Burgundy, at the monastery of St. Praiextus in Flavigny (see Map 5.5). Philippe Depreux has noted that another pillar of the Carolingian regime, the Anglo-Saxon intellectual Alcuin of York, was abbot of the abbey of St. Martin in Tours and also, from around 797 to his death in 804, abbot of Flavigny. It is possible that Alcuin, or someone in his entourage, brought the Tours formulas to Flavigny.⁴⁸

⁴⁶ Buchner, *Rechtsquellen*, 53–54; Wolfram, *Salzburg*, 186; Depreux, "La Tradition," 62.

⁴⁷ Brown, *Unjust Seizure*, 102–23; Davis, *Charlemagne's Practice*, 69–77.

⁴⁸ Depreux, "La Tradition," 61–62.

So what happened when formulas were received in a new locale? In cases where we can safely identify coherent groups of formulas, as for example the Marculf and Tours collections, sometimes they were simply transcribed. It is much more common, however, to find entries in earlier formula collections reshuffled, with individual formulas deliberately selected or dropped, and then mixed in with other formulas. For example, the Flavigny collection mentioned above was put together by mixing parts of the Tours collection and parts of Marculf's collection with formulas drawn from documents in Flavigny's own archive.⁴⁹ Formulas from Marculf and Tours were selected, reordered, and mixed in with native texts to create a new and unique collection that fit its compilers' sense of their own particular needs.

Indeed, some of the borrowed texts in the Flavigny collection were modified or even mixed together, at a textual level, to make new formulas. The following example concerns the procedure for submitting a document for validation to a city assembly, for registration in the so-called "municipal deeds" or *gesta municipalia*. It involves having a documentary record of a transaction brought before a public assembly, read out loud, orally confirmed by the assembly, and entered into the city records. It is a very old procedure that goes back to late Roman practice and late Roman-style city governments. The documentary format attesting to it, complete with its late antique language, was still being used as late as the early ninth century to capture the public validation of documents.⁵⁰ Among the pieces of evidence for this: someone at Flavigny around the turn of the ninth century not only copied it but crafted it to make it his own unique version of it, by taking *gesta municipalia* formulas from both the Marculf and Tours collection and combining them. This process is preserved in two formulas. The first is a mandate from one man asking another to take a document recording a property gift he has made to the city, submit it to the city council, and have it entered into the municipal deeds (the text from Marculf is in light italics, the text from Tours is in boldface).⁵¹

Here begins a mandate

I A, son of C, to the magnificent brother B. I ask, supplicate, and charge your kindness to go in my place to the city N and to petition and submit to the municipal deeds (gesta municipalia) before the public council (curia) and magistrate (defensor) that donation, which I on behalf of D concerning our places named N, situated in the pagus N, have confirmed with a legitimate document. Accordingly we have writ-

⁴⁹ *Collectio Flaviniacensis*, in Zeumer, *Formulae*, 469–92 (with the formulas from different sources labelled); Rio, *Legal Practice*, 117–21.

⁵⁰ Brown, "On the *Gesta municipalia*."

⁵¹ Brown, "On the *Gesta municipalia*," 361–62.

*ten this mandate for you, so that, just as is laid out above, you be responsible for presenting and affirming [the document] thus, and whatever you then do and carry out, **you know will be treated as unalterable and ordained by us in all respects. So that this mandate might have full force, I have affirmed it with my own hand below and decreed that it be confirmed by good men.***⁵²

Then comes the text of the document recording this process:

[An entry into] the records

*In the Nth year of the reign of the king N, on the day N, while an assembly was held in the city N, in the presence of the praiseworthy man the magistrate (defensor) E and the entire public council (curia), the magnificent man the petitioner (prosecutor) B said: I beg, highest magistrate, and the praiseworthy members of the council and the citizens, that you order the public books to be opened to me, **because the illustrious man A asked with this mandate that I tender and submit this charter of donation, which he confirmed in writing, concerning his own properties, namely the locations named N, situated in the pagus N, in the places N, to the municipal deeds (gesta municipalia) before the public council and the magistrate. Behold this charter of donation; order that it be recited.*** The honorable man the magistrate E said: show to us the written mandate, which you say that you have with you, and let it be recited in our presence. After the mandate had been read out, the honorable man the magistrate E said: the mandate has indeed been read out, but let the scribe (amanuensis) accept that written testament, which you say that you have in your hands, and let it be read out in our presence and, as you request, be affirmed in the public records. **Accepting it at once, the scribe read it out in sequence. After the recitation the petitioner B justly said: and since your praiseworthiness in turn deigned to fulfill my petition, I ask that it be taken up in the public records.** The praiseworthy man the magistrate E and the council said: let the document, which has been read out, be inserted into the public records, and that which the petitioner desires and asks, be given to him from the public records. Now the above named petitioner said: it is enough for me, good magistrate, if you bid me to transfer the testament, which was read out, into the records, as is the custom. The magistrate, the man E, and the assembly of the council said: we have recognized that the testament and the mandate that was written for you, prepared in the proper way and signed and affirmed by the hands of good men, is manifest; it is therefore fitting, that

⁵² *Collectio Flaviniacensis*, No. 9, 477: Zeumer prints the actual texts as “Additamenta e codicibus formularum Turonensium,” in *Formulae*, Nos. 4 and 5, 160–61.

*the proceedings concerning this be written down and subscribed by us, that this be given to you according to custom, and that it be preserved in the public archive so that it be remembered, [and] so that the above, which has been entered, may more easily remain inviolate for all time.*⁵³

The combination of sections from the Marculf and Tours versions of these formulas shapes the final product in specific ways. The revised mandate leaves out a line from the Tours original, in which the property donor asks the mandate bearer to report back about what he has done; the Flavigny scribe, for whatever reason, apparently thought this line was unnecessary.⁵⁴ The revised text of the *gesta municipalia* procedure leaves out the original's specific reference to the city of Tours in order to make this a generic document that could be used anywhere. The revised version is also more detailed than its Tours counterpart; the extra detail comes from Marculf. In short, the compiler of the Flavigny formula collection wanted to have a *gesta municipalia* sequence in the spot where the Tours collection would have had one. However, for reasons we can only guess at, he did not like what the Tours formulas offered, so he modified them by blending them with the corresponding Marculf formulas. Later on, the Flavigny collection reproduces a great deal of Marculf's Book II, albeit in a different order from the original and with several formulas left out. Among the formulas left out are the Marculf *gesta* formulas, from which the compiler had borrowed to make his replacements.

We also have cases in which older formulas from somewhere else were updated or changed to reflect current or local conditions. Two manuscripts, one written around the turn of the tenth century, possibly in Trier, and the other our late ninth century manuscript from Salzburg, contain formulas from Marculf that have been altered to a greater or lesser degree. Some differ from the Marculf originals in a way that makes them specifically Carolingian. For example, in a number of royal letters, the opening title given to the king is distinctive. In this one, for example, a king writes to a lay aristocrat ordering him to respond to a charge that he had beaten up and robbed someone. The Marculf original reads:

53 *Collectio Flaviniacensis*, in Zeumer, *Formulae*, No. 10, 477. The text is drawn from *Marculfi Formulae*, II, Nos. 37–38, 97–98; and *Formulae Turonenses*, No. 3, 136–37. Because the texts used in this formula derived from elsewhere, Zeumer gives only the beginning and the ending in his edition of the Flavigny collection; he reproduces the entire formula as *Formulae Turonenses Additamenta*, No. 5, 161.

54 *Formulae Turonenses*, in Zeumer, *Formulae*, No. 2, 136: “and that you return to me information about this procedure. And whatever you thereafter shall do or carry out you should know to be ratified by me in all respects” / *et de ipsa prosecutione mihi reddas certiore. Et quicquid exinde egeris gesserisve ratum me in omnibus esse cognoscas.*

Letter to a layman

*The illustrious man (vir inlustris) King A to B. Our faithful follower C, having come into our presence, put it to us that you attacked him on a road without cause, and hurt him seriously, and took from him his valuables worth N solidi and unlawfully kept them in your possession, and that he had been unable to obtain justice from you regarding this ...*⁵⁵

Note that the royal title is “N king illustrious man” (*Ille rex vir inlustris*). This is a title derived from late antique practice that remained in use under the Frankish kings. In these two manuscripts, however, the royal title gets an important addition: “N **by the grace of God** (*gratia dei*) king, illustrious man (*vir inluster*), to the magnificent man N.”⁵⁶ The use of the phrase “by the grace of God king” (*gratia Dei rex*) marks this as a Carolingian text. It reflects an ideological effort by the Carolingian kings, visible in a number of contexts, to cast themselves as sacral kings ruling on God’s behalf.⁵⁷ It was apparently added to this formula deliberately to make the document match Carolingian realities.

Some formulas were altered much more heavily to fit local circumstances. Particularly interesting is what happens to the Marculf formula I just discussed. As noted above, it is titled “Letter to a layman.” It represents a letter from a king to a man N. The king states that one of his sworn followers had come to him and charged N with having, for no reason, attacked him in the road, gravely wounded him, and stolen his goods. He had not as yet been able to obtain any justice. The king orders N to make amends if he had done what his accuser had said; if he wanted to defend himself against the accusation, he was to come before the king on a specified date and respond to the charge. Somewhere along its way to Bavaria, Marculf’s original text was altered.⁵⁸ It received a much longer title: “Letter of the king to some layman for rendering some particular justice” (*Indiculum regis ad quemlibet hominem laico pro iustitia aliqua facienda*). The sworn follower shows up as before. But this time, he charges his opponent with having seized his inheritance. The king’s order to the accused is changed accordingly. In other words, the scribe here used the earlier formula as a framework for a new formula that deals with an inheritance dispute. Apparently, in his mind, the more likely scenario—or the one in which he was more interested—was one which dealt with property seizure rather than highway robbery.

⁵⁵ *Marculfi Formulae*, in Zeumer, *Formulae*, No. 29, 60–61.

⁵⁶ Leiden, Voss. Lat. 0.86 (see n. 42); BSB, Clm 4650 (see n. 33); *Formulae Marculfinae aevi Karolini*, in Zeumer, *Formulae*, No. 18, 120.

⁵⁷ Reimitz, *History, Frankish Identity*, 300–4; Davis, *Charlemagne’s Practice*, 392–93; Canning, *A History*, 49; Wolfram, *Intitulatio*, 213–17.

⁵⁸ *Formulae Marculfinae aevi Karolini*, in Zeumer, *Formulae*, No. 18, 120.

But this formula's story does not end here. In the late ninth century, when the formula was copied into the Salzburg manuscript, it was given a new title. It became "A letter of the king to a count" (*Epistola regis ad comitem*).⁵⁹ This title is unique to the Salzburg manuscript. Apparently, its scribe thought that the more likely scenario for unjust property seizure was that a count did it. While counts, for the most part, appear in the surviving records serving their official function as heads of local judicial assemblies, they were frequently charged with unjustly seizing property or abusing their power: we see this in other formulas and judicial documents from the period that deal with predatory (or allegedly predatory) counts.⁶⁰

The formula collections are a distinct genre that show up in force during the Carolingian period and that span the entire Carolingian world north of the Alps. Although they are written by hand on parchment, I might be tempted to call them a new technology but for the fact that at least one person, Marculf, had put one together a few decades earlier. But the compilation and use of formula collections drastically expanded from the mid eighth century on. They were a byproduct of a growing need, on the part of churches and monasteries, to have models and resources for writing documents for everybody. At the same time, however, they plainly represent a response to changing attitudes towards writing and heightened concern about adopting the proper language and structures that gave documents legitimacy and authority. They also reflect a new sense that a united Frankish realm needed to follow at least roughly similar sets of forms and precedents.

In general, the formulas reflect a common set of assumptions about situations in which documents might be necessary, and a common repertoire of ways to record them in writing. They also, however, contain great variety: within the various categories, most formulas in the different collections deal with their own specific situations, and many formulas are very idiosyncratic. In many cases, pre-

59 Munich, BSB, Clm 4650 (see n. 33), fol. 26r. It is just barely possible that this letter, rather than being addressed directly to a count, was intended to be sent to a count overseeing such a case. In my opinion, however, the wording makes this implausible.

60 See among the formulas e.g. *Formulae Augienses*, in Zeumer, *Formulae*, No. B 22, 357: a count accuses someone of incest in order to seize his property and is stopped after an investigation by imperial legates; *Formulae Imperiales e Curia Ludovici Pii*, in Zeumer, *Formulae*, No. 5, 291: the emperor Louis the Pious returns to the inhabitants of a villa their freedoms after a count had unjustly taken them away. For actual cases see for example; Mühlbacher, ed. *Diplomata Karolinorum*, vol. 1, No. 12, 17 (ca. 759): Count Gerard is accused of having unjustly seized toll revenue belonging to the monastery of Saint-Denis; Bitterauf, ed., *Die Traditionen*, No. 232, 214 (ca. 806–807): Count Cotehram is accused of seizing property by force from the priest Otker; von Mohr, ed., *Codex Diplomaticus*, vol. 1, No. 19, 32–33 (ca. 825): the emperor Louis the Pious returns property to Bishop Victor of Chur that had been seized by Count Roderic.

existing formulas were altered subtly, or not so subtly, to reflect these local conditions and needs. I do not think that these differences reflect real differences in social or economic conditions; there are too many general similarities in the kinds of formulas the collections contain. They rather reflect, I think, their compilers's different needs, contexts, and interests. Each represents a flexible and creative response to the process of putting together formula collections and using them in practice.

That the formulas helped to forge a common culture of documentary use in Carolingian society at large is evident in the ways they travelled and were copied wholesale or in part, selected, and mixed in with other collections and local documents. Sparse but nevertheless compelling evidence shows that they either had a direct effect on contemporary documents, or at least reflected a common pool of formulaic structures and language; they echo the language and structural layout of real documents and even, on occasion, directly match them—or the language and structural layout of real documents echoes or matches them. Simply by existing, however, and by containing the kinds of documents they did, the formula collections constrained the range of possibilities for those who did not want to go to the trouble of drafting complete documents *ex nihilo*. While they reflected their compilers' sense of what was needed in the here-and-now, at same time they created, for the future, an idea of what was and what was not possible, by offering a particular range of choices and particular ways of expressing transactions. In other words, simply by being put together they both reflected current realities and created new ones.

An obvious question with which to conclude, then, is why did the formula collections disappear? It is hard to answer this question because the available evidence is circumstantial. It is, nevertheless, telling that the last surviving Frankish formula collections have been dated to the tenth century. Those that have been localized all stem from regions on or east of the Rhine river. They thus reflect the tail end of an identifiable diffusion of formula collections over time from west to east, a diffusion that maps onto the spread of Carolingian power and political/cultural influence from the Frankish heartlands, in what had been Roman Gaul and around the lower Rhine, eastwards and southwards, especially into Alemannia (roughly what are now Swabia and the German-speaking parts of Switzerland) and Bavaria (incorporating what are now Bavaria and Austria).⁶¹

In the course of the later ninth and tenth centuries, Carolingian order in Europe began to dissolve, and with it the centre from which the impulses toward common standards of practice and legitimacy emanated. In the tenth century and across

⁶¹ See the literature cited in n. 2 above, as well as Rio, *Legal Practice*, 193–94.

the millennium into the eleventh, more local documentary traditions become visible, characterised by looser textual forms that more simply and directly reported on what had happened—or what the document's producer wanted posterity to believe had happened. They relied less and less, and eventually not at all, on the scripted and sometimes quite archaic language, frameworks, and descriptions of procedure that had characterized Carolingian-era documents. As the western parts of the post-Carolingian world, in particular, fragmented into smaller and less stable polities, royal authority came to matter less and less. Accordingly, local scribes became less concerned with adhering to trans-regional standards of legitimacy.⁶² In the east, however, for a variety of reasons, larger polities—and with them, Carolingian-style political and cultural traditions—survived much longer. Eventually, a new empire emerged in Germany and Italy, ruled by members of the Saxon Ottonian dynasty and relying heavily on Carolingian traditions. It is (I suspect) no accident, therefore, that formula collections continued to be copied in these territories later than anywhere else. Indeed, the very last manuscripts containing formula collections all emanate from one of the great Carolingian monasteries that had reached its greatest flowering in the later ninth century: the monastery of St. Gall (now in northeastern Switzerland).

Yet the east was not immune from change, either. The Austrian historian Heinrich Fichtenau has documented a shift towards looser documentary forms there, too, especially in Bavaria. These likewise reflect a contraction of documentary horizons in the regional and stubbornly independent duchies in which the Ottonian Empire was based.⁶³

The Carolingian formula collections show us how an older documentary tradition and set of forms, as well as the idea of the formula collection itself, were reshaped, combined with current practice, and deployed in ways that both reflect and created new realities for a couple of centuries. These new realities arose from efforts to create a more unified documentary language—and, I think, created the more uniform transactions we see being preserved by the formula collections. What we have here, then, is a case in which dramatic changes in a pre-existing medium for recording and transmitting information were driven by changes in the wider political and cultural context. When that context changed again, and the formula collections no longer met current needs and current landscapes of possibility, they disappeared.

62 See Innes, "On the Material Culture," 286–88; Brown, Costambeys, Innes, and Kosto, "Conclusion" to *Documentary Culture*, 363–76 at 373; Rio, *Legal Practice*, 173–76, 196–97; Barthélemy, *La Société*, 19–64, and *La Mutation*, 30–56.

63 Fichtenau, *Das Urkundenwesen in Österreich*, 98–101.

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Abstract In the Carolingian period (ca. 750–900), scribes in churches and monasteries from across Frankish Europe assembled and copied a large number of documentary formularies: collections of model documents for recording legal transactions. Their efforts most likely reflect a new emphasis on written documentation by successive Carolingian regimes and a concomitant institutionalisation of documentary practices in churches and monasteries. The formula collections are remarkably similar in the kinds of documents they contain. The similarity stems in large part from the fact that the formulas travelled. Complete formula collections, or bits and pieces of formula collections, moved from one place to another, often over very long distances. They were either reproduced intact, or copied partially; they were often reshuffled, modified, combined with other collections, and incorporated into new collections. The formulas' spread both reflected and helped forge a set of common assumptions about the situations in which documents might be necessary and the proper ways to record such situations in writing. At the same time, the ways that formula collections and individual formulas were adapted, altered, and copied into individual manuscripts let us see local scribes assembling new formula collections to meet their own particular and often idiosyncratic needs and interests. The surviving formularies therefore reflect not only the spread of Carolingian documentary culture but also the ways that local document producers and consumers responded to it.

Keywords media revolution, Carolingian Empire, documentary culture, formularies, cartularies, charters, manuscripts, Roman law, legal processes, laity, clergy