
Carolingian capitularies as texts: significance of texts in the government of the Frankish kingdom especially under Charlemagne¹

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Hubert Mordek, who lead the new edition project of *Capitularia* at the Monumenta Germaniae Historica, defined Frankish “capitularies” as “edicts, orders or announcements with legislative, administrative and religiously enlightening character which were issued from Frankish monarchs and which were mostly divided into clauses (*capitula*)”.² As one of fundamental sources for Carolingianists, capitularies have been studied continuously. But in this short paper I cannot handle all the debates about capitularies which have been discussed by historians.³ Instead, I will concentrate on reflecting upon characteristics of this source genre as texts. What kind of text were the documents which historians understand as “capitularies”? Probably we cannot give a single answer which would be valid for all “capitularies” because of their diversity in form and content. We must divide and subdivide them and must consider a possible change in their meanings as written texts as time goes—at the time of writing down, of dissemination by royal agents, of codification by locals or by posterity and so on.⁴ So rather than discussing the matter theoretically and systematically from the beginning, I would like to begin with the analysis of a concrete example.

Here I will show you how *capitula*-lists⁵ of 809 have been edited, with a question in mind: How can we recognize a “capitulary” in a manuscript? This short history of editions may reflect what each editor understood a Carolingian *capitulare* to be. I begin with the capitulary-collection of Étienne Baluze. He printed in his edition two capitularies dated to 809: namely, the “*Capitulare primum*” with 37 clauses transcribed from Paris Lat. 9654 and the “*Capitulare secundum*” with 16

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2 Hubert Mordek, “Fränkische Kapitularien und Kapitulariensammlungen. Eine Einführung,” in *Studien zur fränkischen Herrschergesetzgebung. Aufsätze über Kapitularien und Kapitulariensammlungen – ausgewählt zum 60. Geburtstag*, Frankfurt am Main – Berlin – Brussels – New York – Oxford – Vienna, 2000, pp. 1–53, pp. 1f.

3 Cf. as newer short surveys of capitulary-studies, Phillip Campbell, “Die Kapitularien: Entstehung und Bedeutung,” in *Funktion und Form. Quellen- und Methodenprobleme der mittelalterlichen Rechtsgeschichte*, ed. Karl Kroeschell and Albrecht Cordes, Schriften zur Europäischen Rechts- und Verfassungsgeschichte 18, Berlin, 1996, pp. 23–38; Mordek, “Fränkische Kapitularien”; Ruth Schmidt-Wiegand, Art. Kapitularien, in: *Reallexikon der Germanischen Altertumskunde*, 2nd ed., vol. 16, Berlin, 2000, pp. 232–236.

4 Cf. Rosamond McKitterick, *Charlemagne. The Formation of a European Identity*, Cambridge, 2008, p. 232.

5 To avoid preconceived ideas derived from the word “capitulary”, I use this neutral expression often in this paper. For an advantage of this, see Steffen Patzold, “Normen im Buch. Überlegungen zu Geltungsansprüchen so genannter ‘Kapitularien’,” *Frühmittelalterliche Studien* 41 (2007), pp. 331–350.

clauses transcribed from Paris Lat. 4628A.⁶ Only the former has an inscription dating itself to 809. But Baluze dated both texts to 809 and seems to have seen two different texts issued in the same year.

When Georg Heinrich Pertz published his edition of Frankish capitularies, more manuscripts were available to him.⁷ He considered that the two texts of Baluze were really two versions of one text and published it as “*Capitulare Aquisgranense a. 809*” with 25 clauses based on Paris Lat. 4995, while the special readings of 15 clauses in Paris Lat. 9654 were printed parallel.⁸

The newest edition was published by Alfred Boretius more than 100 years ago. He was able to use still more manuscripts for his edition and published three documents as capitularies issued simultaneously in 809 in Aachen: namely, “*Capitulare Aquisgranense*” (No. 61), “*Capitulare missorum Aquisgranense primum*” (No. 62) and “*Capitulare missorum Aquisgranense alterum*” (No. 63).⁹ So, Boretius gave us three texts: one “ordinary” capitulary and two instructing-capitularies for *missi dominici*. Behind this way of editing, we can find his classification of capitularies in three types: namely, *Capitula legibus addenda*, *Capitularia per se scribenda* and *Capitularia missorum*. So according to him, these three capitularies of 809 were not equal in their quality: The one (No. 61) was royal legislation and the other two were instructions for *missi* with merely temporary validity.

Though Boretius’s classification principle has been criticized since the 19th century, his edition of three capitularies has been the basis of further studies. In other words, there was no objection to Boretius’s view that three different capitulary texts had been issued in 809. But there has been no agreement about the characterization of these texts. I cite representative views of historians on these texts. When Georg Waitz and Gerhard Seeliger criticized Boretius’s capitulary-classification “*capitularia missorum*”, they discussed the characterization of No. 62 and No. 63. Waitz saw in these two texts some kind of proceedings of deliberation, perhaps at one general assembly.¹⁰ Seeliger agreed with him about the characterization of No. 63, but denied that these texts of 809 might have been three versions of one edict: though he could see their general agreement, difference in readings and contents between these three documents was still noticeable. He considered them as three independent ordinances which were issued successively one after another. He attached great importance to the order of texts in the codex Nürnberg Cent. V. App. 96, and supposed that No. 62 would have been issued in 809 only after the two other capitularies.¹¹ Carlo de Clercq also studied the relationship between these three texts. He considered No. 61 as an imperial capitulary issued in the spring of 809 because of the thematic difference between this text and the agenda at the assembly in the autumn of 809, at which the problem of *filioque* was discussed intensively. No. 62 was, according to him, “sans doute” an aide-mémoire dictated by the emperor himself. He supposed No. 63 was “nettement” a compilation of No. 61 and 62.¹² François Louis Ganshof followed Seeliger regarding No. 63 as a memorandum of decisions made during a general assembly, while

6 I cite the reprinted edition of Baluze’s capitularies collection (originally published in Paris, 1677) which was published as a supplement to Mansi’s collection: Stephanus Baluzius, *Capitularia regum Francorum*, vol. 1, Sacrorum conciliorum nova et amplissima collectio, Supplementum ad tomum XVII, Paris, 1902, coll. 465–472.

7 Beside two manuscripts mentioned above, there exist Cava dei Tirreni, Biblioteca della Badia, 4; Paris Lat. 4995; Vatican, Chigi F. IV. 75 and other manuscripts which contain the *Liber Papiensis*. Cf. *Capitularia regum Francorum*, ed. Georg Heinrich Pertz, Monumenta Germaniae Historica Leges 1, Hanover, 1835 [hereafter MGH LL 1], pp. XXXIII–XXXIV and 155; Alfred Boretius, “Praefatio. B. In librum legis Langobardorum Papiensem dictum praefatus est,” MGH LL 4, Hanover, 1868, p. XLVII.

8 Pertz, MGH LL 1, pp. 155–157, edited as no. 87. The 15 special readings are printed as c. 13–27.

9 Please note that in the following discussion I call these three texts with the numbers in Boretius’s edition for the sake of convenience. *Capitularia regum Francorum*, ed. Alfred Boretius, Hanover, 1883; vol. 2, ed. Alfred Boretius and Viktor Krause, Hanover, 1890 [hereafter MGH Capit. 1 and 2].

10 Georg Waitz, *Deutsche Verfassungsgeschichte. Die Verfassung des Fränkischen Reichs*, Berlin, 1883, p. 487.

11 Gerhard Seeliger, *Die Kapitularien der Karolinger*, Munich, 1893, pp. 71 and 80–82.

12 Carlo De Clercq, *La législation religieuse franque. Étude sur les actes de conciles et les capitulaires, les statuts diocésains et les règles monastiques*, Louvain – Paris, 1936, p. 212.

he regarded No. 61 as a *capitulare per se scribendum*, namely a monarchical edict issued at the same assembly and No. 62 as an aide-mémoire for royal *missi* to implement the decisions.¹³ When Gerhard Schmitz analyzed sources and working methods of Ansegis for his famous capitulary-collection, Schmitz dealt with No. 62 and 63 in detail. Comparing each clause of these texts, he concluded that there were two versions of the *capitulare missorum* of 809, namely the long one with 29 clauses, that is No. 62, and the short one with 11 clauses, that is No. 63. Besides, the short one perhaps had an another version with two extra clauses for a particular *missaticum* (a district in which each royal *missus* or *missi*-group was responsible to his legation), that is No. 63 in the Nürnberg codex.¹⁴

As we have seen, there are various opinions about the characterization of these texts. Instead of agreeing with one of those scholars, I'd like to see once again how the *capitula*-lists discussed here were arranged in each manuscript.¹⁵ It is clear that No. 61 and 63 are transcribed together in most manuscripts except Vatican Chigi F. IV. 75.¹⁶ Besides, the clauses of No. 61 and 63 are numbered continuously. Though Ansegis put No. 61 and 63 separated in his capitulary-collection, we can explain it in terms of his working method: Ansegis put those clauses in appendices whose meanings he could not understand well because of their rubric-like briefness.¹⁷ Most *capitula* of No. 63 fall under this case. Now I wonder whether we really must divide up these *capitula*, transmitted almost always together, into two *capitularia*, especially when coexistence in the same *capitulare* of longer and more detailed *capitula*, on the one hand, and shorter and rubric-like *capitula*, on the other hand, was not unusual in the time of Charlemagne. So it would be better if we compare the whole *capitula*-set of No. 61 and 63 with the *capitula*-list known as No. 62. Then we can see that there is a considerable, if not perfect, accordance in wording and contents between those two *capitula*-lists.

It is not easy to say how we should treat the *capitula*-lists in three codices, namely Paris Lat. 4995, Paris Lat. 9654 and Vatican Pal. Lat. 582. It is necessary to ask whether the *capitula*-lists in those are also particular versions or rather products of the compilers of the capitulary-collections preserved in those codices. Because we can see a completely parallel tradition of the two *capitula*-lists in the Nürnberg codex, those compilers could also have had those two lists and compiled from them a more comprehensive list of *capitula*. Certainly, it seems that the compiler of the mother-codex from which the Paris-Vatican sister-manuscripts derived¹⁸ might have complemented the *capitula*-list No. 62 with more detailed description found in the list No. 61+63. Similarly the compiler of Paris Lat. 4995 could have complemented the list 61+63 with some *capitula* of the list No. 62 which the former list doesn't contain. Nevertheless we cannot completely deny that those *capitula*-lists in these three codices might have had their present appearances since issued.

With this consideration, we can see two, three or perhaps several *capitula*-lists written down probably at the same time with the same, at least quite similar, political-administrative intention by the central government, but without full uniformity of wording and contents. What do these findings mean?

13 François Louis Ganshof, "Charlemagne et l'usage de l'écrit en matière administrative," *Le Moyen Âge* 57 (1951), pp. 1–25, here pp. 5f. with n. 13; François Louis Ganshof, *Was waren die Kapitularien?*, Weimar, 1961, pp. 77–79.

14 *Die Kapitulariensammlung des Ansegis (Collectio Capitularium Ansegisi)*, ed. Gerhard Schmitz, Hanover, 1996. [hereafter MGH Ansegis], pp. 49–51.

15 See appendixes.

16 The compiler (or compilers?) of the *capitula* collection preserved in this manuscript (ca. 1000) seems to have had various criterions for his selection of *capitula*. One of them is that he omitted rubric-like *capitula*. See Hubert Mordek, *Bibliotheca capitularium regum Francorum manuscripta. Überlieferung und Traditionszusammenhang der fränkischen Herrschererlasse*, Monumenta Germaniae Historica. Hilfsmittel 15, Munich, 1995, pp. 756–768. This may explain why this manuscripts doesn't include the *capitula*-list No. 63, most of which are rubric-like clauses.

17 MGH Ansegis, p. 17.

18 For this supposedly older collection, see Mordek, *Bibliotheca*, pp. 562f. and 780f.

Here we must consider who the first recipients of those texts or documents were.¹⁹ It is not clear exactly who brought monarchical edicts to each region of the kingdom in the Merovingian²⁰ or in the early Carolingian age. Except for the regional capitulary for Aquitaine of 768, which seems to have been brought and put in practice by royal *missi*,²¹ the *Admonitio generalis* and the *Duplex capitulare missorum* of 789 are the first capitularies whose transmission and implementation all over the kingdom were clearly assigned to the royal *missi*.²² The preface of the *Admonitio* is noteworthy here. The comparison of Charlemagne and the biblical king Joshua is often cited when one considers biblical kings as ideal models for Carolingian kings,²³ but what is important for this study is the difference between Charlemagne and Joshua. While Joshua in person travelled around his kingdom for the sake of reform and correction, Charlemagne needed for the same purpose help of the written normative text, capitulary, and his agents, *missi dominici*.²⁴

Despite this epochal legation of 789 the combined use of capitularies and royal *missi* in the usual royal government seems not to have been established at that point. It was only after the three general attempts to (re-)set the Frankish kingdom in order, respectively in 789, 801–803 and 805–806. In all three occasions we can find a similar set of instruments: programmatic, normative texts which were written down elaborately²⁵ (789: the *Admonitio generalis*;²⁶ 801–803: newly written or revised *Leges* and *capitularia legibus addenda* as their emendation and supplements;²⁷ 805–806: the *Divisio regnorum*)²⁸, royal *missi* dispatched (almost) kingdom-wide with *capitula*-lists,²⁹ and the general oath of fidelity to the monarch.³⁰ I think the time of “administrative capitularies for

19 For this approach, cf. Christina Pössel, “Authors and recipients of Carolingian capitularies, 779–829,” in *Texts and identities in the early middle ages*, ed. Richard Corradini, Rob Meens, Christina Pössel and Philip Shaw, *Forschungen zur Geschichte des Mittelalters* 12, Vienna, 2006, pp. 253–274.

20 This can be related with the formal character of the so-called “Merovingian capitularies” which look like royal precepts. Osamu Kano, “La genèse du capitulaire et son contexte diplomatique,” in *Genesis of Historical Text—Text/Context, 21st Century COE Program International Conference Series No. 4. Proceedings of the Fourth International Conference. Studies for the Integrated Text Science*, ed. Shoichi Sato, Nagoya, 2004, pp. 91–100; Theo Kölzer, “Die merowingischen Kapitularien in diplomatischer Sicht,” in *Scientia veritatis. Festschrift für Hubert Mordek zum 65. Geburtstag*, ed. Oliber Münsch and Thomas Zotz, Ostfildern, 2004, pp. 13–23. There might be differences between the Merovingian and the (high) Carolingian government in the praxis of transmission and enforcement of royal orders.

21 Cf. MGH Capit. 1, No. 24 (a. 789), c. 1, p. 65, which refers to *ibid.* No. 18 (a. 768), pp. 42f.

22 MGH Capit. 1, No. 22, pp. 52–62 and No. 23, pp. 62–64.

23 Cf. Hans Hubert Anton, *Fürstenspiegel und Herrscherethos in der Karolingerzeit*, *Bonner Historische Forschungen* 32, Bonn, 1968, p. 420; Yves Sassier, *Royalauté et idéologie au Moyen Âge. Bas-Empire, monde franc, France (IV^e–XII^e siècle)*, Collection U. Histoire, Paris, 2002, pp. 126f.

24 MGH Capit. 1, No. 22, pp. 53f.: *Quapropter et nostros ad vos direximus missos, qui ex nostri nominis auctoritate una vobiscum corrigerent quae corrigenda essent. Sed et aliqua capitula ex canonicis institutionibus, quae magis nobis necessaria videbantur, subiunximus. [...] Nam legimus in regnorum libris, quomodo sanctus Iosias regnum sibi a Deo datum circumeundo, corrigendo, ammonendo ad cultum veri Dei studuit revocare: non ut me eius sanctitate aequiparabilem faciam, sed quod nobis sunt ubique sanctorum semper exempla sequenda, et, quoscumque poterimus, ad studium bonae vitae in laudem et in gloriam domini nostri Iesu Christi congregare necesse est. Quapropter, ut praediximus, aliqua capitula notare iussimus, ut simul haec eadem vos ammonere studeatis, et quaecumque vobis alia necessaria esse scitis, ut et ista et illa aequali intentione praedicetis.*

25 “Elaborately” not in our sense but in the early medieval standard. Cf. Steffen Patzold, “Die Veränderung frühmittelalterlichen Rechts im Spiegel der ‚Leges‘-Reformen Karls des Großen und Ludwigs des Frommen,” in *Rechtsveränderungen im politischen und sozialen Kontext mittelalterlicher Rechtsvielfalt*, ed. Stefan Esders and Christine Reinle, *Neue Aspekte der europäischen Mittelalterforschung* 5, Münster, 2005, pp. 63–99, as to his discussion about the textual aspect of the *Leges*-reform under Charlemagne and his son. It can be interpreted “als Ausdruck eines rasch und tiefgreifenden Literalisierungsprozesses des weltlichen Rechts” (p. 97).

26 Cf. Thomas Martin Buck, *Admonitio und Praedicatio. Zur religiös-pastoralen Dimension von Kapitularien und kapitularienahen Texten*, *Freiburger Beiträge zur mittelalterlichen Geschichte* 9, Frankfurt am Main – Berlin – Bern – New York – Paris – Vienna, 1997, esp. pp. 67–156.

27 Cf. Gerhard Theuerkauf, *Lex, speculum, compendium iuris. Rechtsaufzeichnung und Rechtsbewußtsein in Norddeutschland vom 8. bis zum 16. Jahrhundert*, Cologne – Graz, 1968, pp. 54–57; Patzold, “Veränderung”.

28 Cf. François Louis Ganshof, *Frankish Institutions under Charlemagne*, Providence, 1968, p. 7; Johannes Fried, “Erfahrung und Ordnung: Die Friedenskonsitution Karls des Großen vom Jahr 806,” in *Herrscher- und Fürstentestamente im westeuropäischen Mittelalter*, ed. Brigitte Kasten, *Norm und Struktur. Studien zum sozialen Wandel in Mittelalter und früher Neuzeit* 29, Cologne – Weimar – Vienna, 2008, pp. 145–192, pp. 151f.

29 789: MGH Capit. 1, No. 23–24, pp. 62–66; 802–803: Wilhelm A. Eckhardt, “Die Capitularia missorum specialia von 802,” *Deutsches Archiv für Erforschung des Mittelalters* 12 (1956), pp. 498–516, here pp. 500–504, and MGH Capit. 1, No. 40, pp. 114–116; 805–806: MGH Capit. 1, No. 43–44, pp. 121–126 and No. 46, pp. 130–132.

30 789: MGH Capit. 1, No. 23, c. 18, p. 63; No. 24, proem., p. 65; No. 25, esp. proem. and. cc. 1–4, pp. 66f. 802–803: MGH Capit. 1, No. 33,

missi dominici” (Rosamond McKitterick)³¹ in which royal *missi* were sent out quasi regularly with *capitula*-lists came after those large-scale reformative works. It must have been a gradual development.³² Anyway, the *capitula*-lists of 809 which I discussed above were produced in the time of closely-combined administrative usage of capitularies and *missi dominici* under Charlemagne.

By the way, during the Carolingian age various types of texts which we consider as “capitularies” or “capitulary-like texts” were written down. We know these texts had their own various *raison d’être* and purposes. Accordingly, not all texts needed to be written with the same textual accuracy and detail or to be spread out kingdom-wide. For example, an agenda list for a general assembly or a smaller meeting, now known as *memoranda* or *capitula adhuc conferenda*, enumerates merely rubric-like clauses and had no need to be circulated after the discussion,³³ though it might have been sent out to responsible persons before the meeting.³⁴ Also minutes of assemblies might not have been circulated “as was”. I mean here for example an Italian *capitula*-list in the time of Pippin of Italy and the famous “great capitulary” (Ganshof) of Frankfurt 794, both of which have quite weak manuscript-traditions.³⁵ Now we can add to this group the famous, great “programmatic capitulary”

cc. 2–9, pp. 92f.; Eckhardt, “Capitularia missorum specialia”, c. 1, p. 500; MGH Capit. 1, No. 34, two formulae of oath, pp. 101f. 806; MGH Capit. 1, No. 46, c. 2, p. 131. For the dating of No. 25 to 789, see Matthias Becher, *Eid und Herrschaft. Untersuchungen zum Herrscherethos Karls des Großen*, Vorträge und Forschungen Sonderband 39, Sigmaringen, 1993, pp. 79–82.

31 McKitterick, *Charlemagne*, pp. 256–263.

32 I don’t mean to say that only the royal *missi* should have spread out the capitularies all over the kingdom. Especially counts and bishops played a roll in transmitting royal orders further in regional societies after they received them through the *missi*. Mordek, “Fränkische Kapitularien,” p. 6. But I think the royal *missi* were the principal agents in transmitting royal orders through capitularies. The *Capitula per episcopos et comites nota facienda*, which had to be disseminated by counts, bishop and abbots after an unidentified assembly, were issued in a particular situation where many magnates that highly probably included the usual candidates for *missi* were absent because of an expedition. MGH Capit. 1, No. 54, p. 141.

33 Cf. Ganshof, *Was waren die Kapitularien?*, p. 25; Hubert Mordek, “Kapitularien und Schriftlichkeit,” in *Schriftkultur und Reichsverwaltung unter den Karolingern. Referate des Kolloquiums der Nordrhein-Westfälischen Akademie der Wissenschaften am 17./18. Februar 1994 in Bonn*, ed. Rudolf Schieffer, Abhandlungen der Rheinisch-Westfälischen Akademie der Wissenschaften 97, Opladen, 1996, pp. 34–66, p. 38. But it must be noted that such an agenda, if preserved well, could be used also on a later occasion as Ganshof’s case study of an agenda of 811 tries to show its use at the reform synods of 813. François Louis Ganshof, “Note sur les « Capitula de causis cum episcopis et abbatibus tractandis » de 811,” *Studia Gratiana* 13 (1967), pp. 1–25.

34 Cf. MGH Capit. 2, No. 186, pp. 6f.

35 Cf. manuscriptsregister of Mordek, *Bibliotheca*, pp. 1083 and 1090. See cc. 5 and 6 of the Italian *capitula*-list (787/788); MGH Capit. 1, No. 96, c. 5, p. 202: *Et hoc etiam scribimus, ut cunctis diligentes inquirat: ut si est homo uxorem habens, et supra ipsa cum alia adulterans et concubinam habuerint, a tali igitur illicita perpetracione faciat eos cum omni sollicitudine separari; ibid.*, c. 6, p. 203: *Sic placuit domni regi, ut qui as nefandas criminas emendare de terminibus sibi commissis, ut diximus, emendare neglexerit, ut in sacro palatio widrigildum suum componat.* Judging from its wording, it seems the author of this text recorded the progress of deliberations in front of Pippin of Italy. The document of the synod in Frankfurt (794) is written down partly in detail, partly very simple. Some clauses are mere rubrics. It is certainly the outcome of the discussion at Frankfurt. But c. 3 about Tassilo’s final resignation of the rulership in Bavaria as well as the succession of his descendants demands that three copies of a charter which records this case should be issued for archiving. That means that the document known as „capitulary of Frankfurt“ was not intended to be disseminated and preserved systematically “as was”. MGH Capit. 1, No. 28, c. 3, p. 74 = *Concilia aevi Karolini 742–842*, ed. Albert Werminghoff, Hanover, 1906 [hereafter MGH Conc. 2,1], No. 19, c. 3, p. 165f. Actually, the publication of decisions at Frankfurt on the regional level was realized only after some years: in 796/797 in Cividale and in 799/800 in Bavaria, though patriarch Paulinus of Aquileia and the Bavarian bishops were present in Frankfurt. “Annales Maximiniani”, a. 794, ed. Georg Waitz, in: MGH Scriptorum 13, Hanover 1881, p. 22. See Wilfried Hartmann, *Die Synoden der Karolingerzeit im Frankenreich und in Italien*, Paderborn – Munich – Vienna – Zürich, 1989, pp. 117–119 and 141–148. The following sentence in the invitation-letter of Arn of Salzburg to a provincial synod is though-provoking for understanding the situation: “*et si illa capitula, quae in illa synodo in Francia gesta fuerunt, scripta habeatis, vobiscum deferte.*” MGH Conc. 2,1, No. 22 A, p. 196 (for this letter, see Hartmann, *ibid.*, p. 142; Stephan Freund, *Von den Agilolfingern zu den Karolingern. Bayerns Bischöfe zwischen Kirchenorganisation, Reichsintegration und Karolingischer Reform (700–847)*, Schriftenreihe zur bayerischen Landesgeschichte 144, Munich, 2004, p. 229 with n. 325.) So it seems these *capitula* resolved at the synod in Francia had not been disseminated systematically in Bayern yet. Therefore Sintpert, bishop of Neuburg/Augsburg, had to bring from the court the synodal acts of Aachen and Frankfurt: *Simulque etiam in unum revolventes quod gloriosissimus rex constituerat ad emendationem totius ecclesiae, — hoc per virum venerabilem Sintbertum episcopum usque ad nos dirigere studuit cum aliis relegiosis(!) viris, — quicquid ad Aquis de religionis statu vel vitae morum oportunitate, discerpit pariterque et illud, quod in magno concilio cum capitulis collectis in loco nuncupato Francorum vado quae per omnes provincias observare decrevit, nosque haec in medium deferentes studuimus ea per singula recitare et, in quantum potuimus, quae illic inserta non fuerant nos canonum auctoritate augere curavimus.* Albert Werminghoff, “Zu den bayrischen Synoden am Ausgang des achten Jahrhunderts,” in *Festschrift Heinrich Brunner zum siebzigsten Geburtstag*, Weimar, 1910, pp. 39–55, p. 42. See also Mordek, *Bibliotheca*, No. 6 (Karoli regis capitula ad Arnonem archiepiscopum Salisburgensem directa), pp. 974f. For the lower survival chance of texts considered as „Zwischenstand der Beratungen“ which didn’t have to be spread out systematically, see Patzold, “Veränderung,” p. 91 n. 111 (about MGH Capit. 1, No. 134, 135 and 142). For the character of the *capitula*-list issued in Frankfurt, see also Patzold, “Normen im Buch,” p. 340 n. 46.

(Ganshof)³⁶ of 802, thanks to Steffen Patzold.³⁷ Patzold asked if the list of 33 *capitula* known as the “programmatic capitulary” was actually “one” capitulary. With his detailed analysis of the unique manuscript, he persuasively supposes that these clauses didn’t form one coherent capitulary but that they were several lists of decisions made at several stages of discussions held at Aachen in 802. The person who united those lists in one series of *capitula* was the compiler of the *capitula* collection which we can see only in a later copy of poor quality.

Another type of *capitula*-list which was not intended to be sent out widely is notes for oral instructions of the king. As is well known, the king gave his instructions to his *missi* both orally and in writing (with capitularies or mandates).³⁸ A letter from one *missus* to his colleague helps us here to have a glimpse of such a scene. Its author was probably Wulfar, later archbishop of Reims, and the addressee was probably abbot Fardulf of St-Denis. The letter can be dated to 802 approximately. Wulfar asked Fardulf whether the abbot had a *pagina* that the emperor had read out before the departure of participants from the assembly. So we can suppose that at this time the royal *missi* were given instructions based on decisions of the assembly which were written down. But the document which recorded those decisions was only read out by Charlemagne and wasn’t copied and given to the *missi* systematically. The fact that Fardulf was asked for the *pagina* is also suggestive here, because Wulfar had received a letter about his legation as *missus* from Charlemagne shortly before, so he could have had a channel to contact directly with the imperial court and to ask for a copy of the *pagina*. So we cannot exclude the possibility that Wulfar could not expect this *pagina* to have been preserved at the court.³⁹ Anyway, we cannot know concretely what was this *pagina* of 802 was. But two documents might fall into this category: the instruction for *missi* of 789 about the general oath of fidelity and the instruction for *missi* of 829. These texts reveal traces that they were read out by Charlemagne and Louis the Pious respectively to instruct their *missi*.⁴⁰ Each of these two texts certainly had a strong link with the legation of the issue-year. But compared to the other texts issued in the same contexts of the legations which often form a group in many manuscripts, the aforesaid documents have quite weak text traditions.⁴¹ This might mean that *missi* didn’t bring those documents on their journeys.

Among capitulary-texts whose wide distribution was intended there seems to be difference in their textual formality in the time of Charlemagne. As mentioned above, there were examples of capitularies with rubric-like clauses under Charlemagne which disappeared under his successors. But these rubric-like capitularies don’t imply less concern about the elaboration of capitulary-texts nor an underestimation of the role of written texts in setting norms, nor incapability of producing fully-formulated instructions for *missi* and their audience in regions. This becomes clear when we look to the contrast between paired capitularies, for example, the *Admonitio generalis* and the *Duplex capitulare missorum* of 789, or the *Capitulare legibus additum* and the *Capitulare missorum* of 803.⁴² These paired capitularies seem to have been issued simultaneously for royal *missi* to

36 Ganshof, *Frankish Institutions under Charlemagne*, p. 6f.

37 Patzold, “Normen im Buch”.

38 Cf. MGH Capit. 1, No. 58 (Responsa misso cuidam data), c. 6, p. 145.

39 Collectio sancti Dionysii, No. 24, *MGH Formulae Merovingici et Karolini aevi*, ed. Karl Zeumer, Hanover, 1886, p. 509. For this letter, see Wilhelm Levison, “Das Formularbuch von Saint-Denis,” *Neues Archiv der Gesellschaft für Ältere Deutsche Geschichtskunde zur Beförderung einer Gesamtausgabe der Quellenschriften deutscher Geschichten des Mittelalters* 41 (1919), pp. 283–304, here pp. 293–304.

40 MGH Capit. 1, No. 25, pp. 66f. (... *capitulis quibus dominus rex missis suis praecepit, quomodo...*) and MGH Capit. 2, No. 187, pp. 7–9 (*Dicendum est illis...; iniungendum est missis ... etc.*).

41 As to the texts of 789, MGH Capit. 1, No. 22 and 23 are preserved together in many manuscripts compared to No. 25, which is preserved in only one manuscript. See also the sparse survival of MGH Capit. 2, No. 187 in contrast with the other texts related to the reformatory mission of 829. Mordek, *Bibliotheca*, pp. 1082f. and 1101–1103.

42 789: MGH Capit. 1, No. 22 and 23, pp. 52–64; 803: *ibid.*, No. 39 and 40, pp. 111–116.

bring them to their *missatica*. Actually these capitularies are transcribed mostly as pairs in the manuscripts.⁴³ In both cases we see the combination of a capitulary whose clauses were explanatory enough for readers to understand on the one hand and a capitulary with simple, partly rubric-like clauses. Why were some documents so laconic? It must be considered from the perspective of the oral and written distribution of capitularies through royal *missi*. We have now some important works which show and emphasize the importance of literacy (of both ecclesiastical and lay elites) as well as the complementary functions of orality and writing in the central and local government of the Carolingian kingdom(s). As to capitularies, now it seems to be widely accepted that the authenticity of their contents was still more important than formality as written documents.⁴⁴ With the following consideration, therefore, I don't intend to give a fully new interpretation about this theme but to refine our understanding.

We have to note that rubric-like *capitula*-lists brought by royal *missi* were not shorter versions nor something like checklist of complete and authentic capitularies. We cannot find a concrete example of master and subordinate capitularies, at least now that we can no longer be confident of the existence of the "great programmatic capitulary" of 802, as mentioned above. Various versions of partly rubric-like *capitula*-lists of 802⁴⁵ were therefore "authentic" documents as such. They were "authentic" and "official" in the sense that they were based on decisions made at the assembly of 802 (which were noted down on pieces of parchment, as Patzold argues)⁴⁶ and had the royal authority behind them,⁴⁷ but they didn't go back to "a unique authentic capitulary" whose text also must have been spread out. Differences between versions would have been to be expected and can be variously explained. For example, some versions have clauses specific to coastal regions which were of no use for the *missi* of inland regions.⁴⁸ One version for abbot Fardulf doesn't include the clause about investigation of abbots as to whether they lived canonically or according to the Rule of Benedict, with good knowledge of norms respectively. This was perhaps because that was quite self-evident for him.⁴⁹

43 Cf. *ibid.*, pp. 1082–1085.

44 E.g. Rosamond McKitterick, *The Carolingians and the Written Word*, Cambridge, 1989; Janet L. Nelson, "Literacy in Carolingian government," in *The Uses of Literacy in Early Medieval Europe*, ed. Rosamond McKitterick, Cambridge – New York, 1990, pp. 258–296; Rosamond McKitterick, "Zur Herstellung von Kapitularien: Die Arbeit des Leges-Skriptoriums," *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 101 (1993), pp. 3–16, and articles, esp. Mordek's, in *Schriftkultur und Reichsverwaltung unter den Karolingern. Referate des Kolloquiums der Nordrhein-Westfälischen Akademie der Wissenschaften am 17./18. Februar 1994 in Bonn*, ed. Rudolf Schieffer, Abhandlungen der Nordrhein-Westfälischen Akademie der Wissenschaften 97, Opladen, 1996. Compare Arnold Bühler, "Wort und Schrift im karolingischen Recht," *Archiv für Kulturgeschichte* 72 (1990), pp. 275–296. I thank Prof. Dr. Gerhard Schmitz very much for giving me his unpublished paper about capitularies, which was read in Paris, 2009. Essentials of his argument will be found in his article "Kapitularien" in *Handwörterbuch zur deutschen Rechtsgeschichte*, 2nd ed., 15. Lieferung, coll. 123–130 (forthcoming).

45 Eckhardt, "Capitularia missorum specialia", with the edition of various versions.

46 But I don't agree with his assumption that the documents edited by Eckhardt were not capitularies for *missi* but the minutes of various discussions. The *capitula*-list in Paris Lat. 4495, which Patzold considers as most problematic in terms of a document for *missi*, seems to be a compilation of two documents for *missi* of two different *missatica*, as preceding historians considered. It was possible that a compiler of *capitularia* was able to have various documents from various regions. A compiler in Sens could use for his capitulary-collection a capitulary of 857 for the *missi* in the region around Thérouanne. Mordek, *Bibliotheca*, pp. 562f. and 574. This capitulary-collection can be found in Paris Lat. 9654 and Vatican Pal. Lat. 582 now. It must be noted that all three manuscripts mentioned here are the manuscripts that I have mentioned above when I discussed the possibility that a compiler could have use various versions of *capitula*-lists for the legation of the same year to give a more comprehensive text in his collection.

47 Cf. Pössel, "Authors and recipients," pp. 266ff.

48 Eckhardt, "Capitularia missorum specialia", cc. 13a and 13b in A and B/C, p. 502. See also *ibid.* p. 506.

49 *Ibid.* c. 3 in A and D, but not in B/C, p. 501: *De abbatibus, utrum secundum regulam vivant an canonicè, et si regulam aut canones bene intellegant*. There is another possible explanation. C. 4 in A and D premises, in accordance with contemporaneous Carolingian norm-establishing, that only those who observe the Rule of Benedict could be regarded as monks, distinguished from those who lived in a religious community but observed other rules and consuetude. *Ibid.*, c. 4: *De monasteria virorum ubi monachi sunt, si secundum regulam vivant, ubi promissa est*. The Fardulf's version seems to unite these two clauses (cc. 3–4) into one (c. III in B/C): *De monasteriis virorum ubi monachi sunt, si secundum regulam (sic) vivant an canonicè, et si regulam et canones bene intellegant ubi promissa est*. This may reflect the ambivalent, or rather negative attitude of the convent of St-Denis against the strict observance of the Benedictine Rule. As to the situation of St-Denis around 800, see Josef Semmler, "Saint-Denis. Von der bischöflichen Coemeterialbasilika zur königlichen Benediktinerabtei", in *La Neustrie. Les pays au nord de la Loire de 650 à 850. Colloque historique international*, ed. Hartmut Atsma, Beihefte der Francia 16,

As for the skeletal nature of the texts for *missi*, they could presumably remember from those short passages or keywords what they had to proclaim in front of the public at regional assemblies, when they were attendant on the decision-making at the central. Their designation was also significant here. Its effect could be more than heightening their sense of responsibility as royal agents. Most *missi dominici* who brought capitularies were usually local magnates,⁵⁰ so when they came with capitularies to their local assembly, it was their homecoming. But they were designated as royal *missi* who were dispatched from the court to various regions. I think this rhetorical difference might have made people more easily trust and follow decisions and instructions from the royal authority brought orally as well as in writing by *missi*, as early medieval people could expect *fideles* messengers (who were also called *missi* or *nuntii* in sources) to bring not only letters but also oral messages trustworthily.⁵¹ Another factor might have been the diversity of vernaculars in the Carolingian empire. We have no trace of “official” translated text of capitularies.⁵² Royal *missi* as local magnates might have had little difficulty in translating but could explain decisions and instructions more fluently, or perhaps better, if they could speak in their vernacular without being restrained by accurate wording of an “official” text but only according to the concept framed at the court.⁵³ Of course behind this kind of room for “freer” speech of royal *missi* we must see the king’s trust in them that they would not deviate from the policy to which they had given their assent at the assembly.⁵⁴

Now I’d like to come back to the “capitularies” of 809. Which category of capitulary-texts do

vol. 2, Sigmaringen, 1989, pp. 75–123, esp. 103–111.

- 50 Cf. Karl Ferdinand Werner, “MISSUS-MARCHIO-COMES. Entre l’administration centrale et l’administration locale de l’Empire carolingien,” in *Histoire comparée de l’administration (IV^e–XVIII^e siècles)*, ed. Werner Paravicini and Karl Ferdinand Werner, Munich, 1980, pp. 191–239; Jürgen Hannig, “Pauperiores vassi de infra palatio? Zur Entstehung der karolingischen Königsbotenorganisation,” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 91 (1983), pp. 309–374. I’m preparing to publish a comprehensive study of Carolingian *missi*.
- 51 For early medieval messengers, see Volker Scior, “Stimme, Schrift und Performanz, ‘Übertragungen’ und ‘Reproduktionen’ durch frühmittelalterliche Boten,” in *Übertragungen. Formen und Konzepte von Reproduktion in Mittelalter und Früher Neuzeit*, ed. Britta Bußmann, Albrecht Hausmann, Annelie Kreft and Cornelia Logemann, Trends in medieval philology 5, Berlin–New York, 2005, pp. 77–99; Volker Scior, “Veritas und certitudo oder: Warten auf Wissen. Boten in frühmittelalterlichen Informationsprozessen,” *Das Mittelalter* 11, no. 1 (2006), pp. 110–131; Volker Scior, “Bemerkungen zum frühmittelalterlichen Boten- und Gesandtschaftswesen,” in *Der frühmittelalterliche Staat — europäische Perspektiven*, ed. Walter Pohl and Veronika Wieser, Denkschriften der phil.-hist. Klasse 386; Forschungen zur Geschichte des Mittelalters 16, Vienna, 2009, pp. 315–329. Of course *missi dominici* were not simple capitulary-bringers and cannot be equated with those messengers. But this rhetorical aspect of the designation as monarchical *missi* must be taken into account seriously, especially when we study the mechanism of administrative communication, more strictly, of transmission and implementation of the royal will. When an imperial *missus* in Bayern, probably Arn of Salzburg, announced the newly proclaimed imperial capitulary at his regional synod, he demanded his suffragan bishops to take responsibility as imperial *legati* for implementation of the imperial policy at diocesan level, though I don’t think those designation as *legati* was really institutional. Herbert Schneider, “Karolingische Kapitularien und ihre bischöfliche Vermittlung. Unbekannte Texte aus dem Vaticanus latinus 7701,” *Deutsches Archiv für Erforschung des Mittelalters* 63 (2007), pp. 469–496.
- 52 Some private translations of Carolingian normative texts survived. The so called Trier capitulary: MGH Capit. 1, No. 182, p. 378–381; Elias von Steinmeyer, *Die kleineren althochdeutschen Sprachdenkmäler*, Berlin, 1916, pp. 305–308 (No. 40). Cf. Werner, “MISSUS-MARCHIO-COMES,” pp. 199 n. 27; Mordek, *Bibliotheca*, pp. 734–738; Ruth Schmidt-Wiegand, Trierer Capitulare, in: *Verfasserlexikon*, 2nd ed., vol. 9 (1995), coll. 1040f.; MGH Ansegis, p. 368f. The *Exortatio ad plebem christianam*: Steinmeyer, *Sprachdenkmäler*, pp. 49–54 (No. 9). Cf. Rosamond McKitterick, *The Frankish Church and the Carolingian Reforms, 789–895*, London, 1977, pp. 86 and 194f. with n. 1; Cyril Edwards, “German vernacular literature: a survey,” in *Carolingian Culture: emulation and innovation*, ed. Rosamond McKitterick, Cambridge, 1994, pp. 141–170, p. 146; Stefan Esders and Heike Johanna Mierau, *Der althochdeutsche Klerikereid. Bischöfliche Diözesangewalt, kirchliches Benefizialwesen und volkssprachliche Rechtspraxis im frühmittelalterlichen Baiern*, MGH Studien und Texte 28, Hanover, 2000, p. 184; Hans J. Hummer, *Politics and power in early medieval Europe: Alsace and the Frankish Realm, 600–1000*, Cambridge Studies in Medieval Life and Thought, 4th series, Cambridge, 2005, p. 135.
- 53 I don’t intend to deny meaning and significance of accurate wording for the all sorts of texts in the category of “capitularies”. For example: When a *missus* obtained the oath of fidelity from persons in his *missatica*, they had to swear accurately according to the wording of the formula which the *missus* brought with him. See Becher, *Eid*, esp. pp. 78ff. I thank Prof. Dr. Stefan Esders for his comments at the colloquium.
- 54 But there could be a chance of “sabotage” for recipients of texts by rewriting and forging some *capitula* for their own sake. Cf. Detlev Zimpel, “Unliebsame Herrscher-Erlasse im Frankenreich. Über die Sabotage von Kapitularien,” in *Scientia veritatis. Festschrift für Hubert Mordek zum 65. Geburtstag*, ed. Oliber Münch and Thomas Zotz, Ostfildern, 2004, pp. 127–136, though his argument in this article is not always convincing. I owe a critical reading of this article to Prof. Schmitz. See also Steffen Patzold, *Episcopus. Wissen über Bischöfe im Frankenreich des späten 8. bis frühen 10. Jahrhunderts*, *Mittelalter-Forschungen* 25, Ostfildern, 2008, pp. 62 n. 83.

they fall into? The most probable answer seems to be that they reflect a few or several versions of the written basis for the legation of 809 which the *missi* brought with them. Some extra clauses could reflect specific situations in specific regions. Though I must let one problem remain open, from where the difference in wording derived, I do say that this kind of “looseness” was characteristic of Charlemagne’s combining usage of capitularies and his *missi*.

But perhaps this looseness could have been one of the causes that made the old emperor Charlemagne anxious at the end of his reign, whether the norms which he had tried to establish through his continuously issued capitularies were actually accepted by the people in his empire. To investigate it, he dispatched his *missi* with the forty-clauses-capitulary, which mostly concern the earlier decisions.⁵⁵ If these *missi* were sent out from the general assembly of 813 in Aachen,⁵⁶ Louis the Pious was also there.⁵⁷ One can only guess that this anxiety of his father would drive him to tendencies toward production and distribution of authentic and accurately written norm-texts, as we can see in his circular letter to archbishops in 816⁵⁸ and in the *Admonitio ad omnes regni ordines*, probably of 825.⁵⁹ Capitularies which the imperial *missi* of Louis brought in their legations were written down in more detail and precision than under his father. Also the use of *missi dominici* in royal government seems to be most systematic under Louis the Pious as we can see, for example, in his systematic division of *missatica* basically based on the division of ecclesiastical provinces.⁶⁰

However, production and distribution of accurately written norm-texts alone could not guarantee efficiency and smooth operation of the government through capitularies and *missi*. *Missi dominici* must have understood well how they had to use those norm-texts. The excerpt of the *Admonitio generalis* and the *Duplex capitulare missorum* made by an Aquitanian lay *missus* can show us how he understood his competence as a lay royal agent delegated with, if not fully, royal power.⁶¹ When a Burgundian *missus* of Charles the Bald received a capitulary issued after the general assembly of Quierzy in 857 with a small *capitula*-collection which was compiled to take measures against *raptores*, he excerpted some *capitula* and rewrote them in his own words to announce them at his regional assembly.⁶² After all, a royal government through royal agents must have depended heavily on their personality and capacity. That is why *fideles* and *strenui missi* were always needed.

55 Hubert Mordek and Gerhard Schmitz, “Neue Kapitularien und Kapitulariensammlungen,” *Deutsches Archiv für Erforschung des Mittelalters* 43 (1987), pp. 361–439, here pp. 414–423 with footnotes.

56 Cf. *Ibid.*, pp. 377f.

57 J. F. Böhmer, *Regesta imperii, I. Die Regesten des Kaiserreichs unter den Karolingern 751–918*, vol. 1, newly redacted by Engelbert Mühlbacher, 3rd. ed., Hildesheim 1966, No. 479a–b.

58 MGH Conc. 2,1, No. 39, p. 458.

59 MGH Capit. 1, No. 150, c. 26, p. 307 = MGH Ansegis 2, 24, pp. 540f.

60 MGH Capit. 1, No. 151, c. 1, p. 308 = MGH Ansegis 2, 25, pp. 541–545. This systematic division and the obvious exclusion of Aquitaine and Bayern from the *missatica* system can be naturally related to the idea developed well around 825 about the hierarchical political order in the Frankish empire: each person should take part in the royal government according to his *locus* and *ordo*, and should so be assigned with a part of the *ministerium* of the monarch. In this schema, government of Aquitaine and Bayern were assigned to two sons of the emperor, namely Pippin and Louis, as imperial representatives, so that there was no need to set up *missatica* for *missi*, also imperial representatives, there. Cf. Olivier Guillot, “Une ordinatio méconnue: le capitulaire de 823–825,” in *Arcana imperii (IV^e–XI^e siècle). Recueil d’articles*, Cahiers de l’Institut d’Anthropologie Juridique 10, Limoges, 2003, pp. 371–408; Olivier Guillot, “L’exhortation au partage des responsabilités entre l’empereur, l’épiscopat et les autres sujets vers le milieu du règne de Louis le Pieux,” in *Arcana imperii*, pp. 409–430; Brigitte Kasten, *Königssöhne und Königsherrschaft. Untersuchungen zur Teilhabe am Reich in der Merowinger- und Karolingerzeit*, Schriften der MGH 44, Hanover, 1997, pp. 137f., 178–187; Patzold, *Episcopus*, pp. 140ff. But it must be noted that the division of 825 didn’t perfectly coincide with the freshly reestablished metropolitan system both in personal and geographic aspects. About the metropolitan system in the Carolingian age, see Daniel Carlo Pangerl, *Die Metropolitanverfassung des karolingischen Frankenreiches*, MGH Schriften 63, Hanover, 2011.

61 Martin Gravel, “Du rôle des *missi* impériaux dans la supervision de la vie chrétienne. Témoignage d’une collection de capitulaires du début du IX^e siècle,” *Memini. Travaux et documents* 11 (2007), pp. 61–92. I thank Dr. Gravel very much for sending me a copy of his paper.

62 *Die Konzilien der karolingischen Teilreiche 843–859*, ed. Wilfried Hartmann, Hanover, 1984., No. 38 (a. 857) Anhang, pp. 397f.

Table A The manuscript-tradition of capitula-lists of 809 (based on Mordek, *Bibliotheca capitularium*)

Nürnberg Cent. V, App. 96 (9th c., 1st half) No. 61 & 63	Nürnberg Cent. V, App. 96 (9th c., 1st half) No. 62	Paris Lat. 4628A (10/11th c.) (=Paris Lat. 4631) No. 61 & 63	Paris Lat. 4995 (10th c.) No. 61 + (62 + 63)	Sélestat 14 (104 9th c., 2nd third) No. 61 & 63	Paris Lat. 9654 / Vatican Pal. Lat. 582 (10/11th c.) No. 62 + (61 & 63)	Vatican Chigi F. IV. 75 (ca. 1000) No. 61	Vatican Reg. Lat. 520 (mid 9th c.) No. 62	Ansegis No. 61 & 63
61-inscription	—	61-inscription	61-inscription (partly as Cap. I.)	61-inscription	62-inscription	61-inscription	—	—
<I>. (61-1)	I. (62-1)	PRIMUM CAP. (61-1)	II. (61-1) (particular reading, influenced by 62-28?)	(61-1)	I. (62-1)	I. (61-1)	I. (62-1)	3, 47 (61-1)
II. (61-2)	II. (62-2)	II. (61-2)	III. (61-2)	II. (61-2)	II. (62-2)	II. (61-2)	II. (62-2)	3, 48 (61-2)
III. (61-3)	III. (62-3)	III. (61-3)	III. (61-3, 4, 5) (c. 5: particular reading, influenced by 62-13?)	III. (61-3)	III. (62-3)	III. (61-3)	III. (62-3)	3, 49 (61-3)
III. (61-4)	III. (62-4)	III. (61-4)	V. (61-6)	III. (61-4)	III. (62-4)	III. (61-4)	III. (62-4)	3, 50 (61-4)
V. (61-5)	V. (62-5)	V. (61-5)	VI. (61-7)	V. (61-5)	V. (62-5)	V. (61-5)	V. (62-5)	3, 51 (61-5)
VI. (61-6)	VI. (62-6)	VI. (61-6)	VII. (61-8)	VI. (61-6)	VI. (62-6) (particular reading)	VI. (61-6)	VI. (62-6)	3, 52. (61-6)
VII. (61-7)	VII. (62-7)	VII. (61-7)	VIII. (61-9)	VII. (61-7)	VII. (62-7)	VII. (61-7)	VII. (62-7)	3, 53 (61-7)
VIII. (61-8)	VIII. (62-8)	VIII. (61-8)	VIII. (61-10)	VIII. (61-8)	VIII. (62-8)	VIII. (61-8)	VIII. (62-8)	1, 139 (61-8)
VIII. (61-9)	VIII. (62-9, 10)	VIII. (61-9)	X. (61-11) (particular reading, influenced by 62-22?)	VIII. (61-9)	VIII. (62-9) (particular reading)	VIII. (61-9)	VIII. (62-9)	3, 54 (61-9)
X. (61-10)	X. (62-11)	X. (61-10)	XI. (61-12)	X. (61-10)	X. (62-10)	X. (61-10)	X. (62-10)	3, 55 (61-10)
XI. (61-11)	XI. (62-12)	XI. (61-11)	XII. (61-13)	XI. (61-11)	XI. (62-11) (particular reading, influenced by 61-3)	XI. (61-11)	XI. (62-11)	3, 56 (61-11)
XII. (61-12)	XII. (62-13)	XII. (61-12)	XIII. (61-14)	XII. (61-12)	XII. (62-12) (particular reading in Paris)	XII. (61-12)	XII. (62-12)	App. 2, 17 (61-12)
XIII. (61-13)	XIII. (62-14)	XIII. (61-13)	XIII. (62-23) (particular reading)	XIII. (61-13)	XIII. (62-13) (particular reading in Paris, influenced by 61-5)	(Various Italian capitularies follow from XIII on)	XIII. (62-13)	3, 57 (61-13)
XIII. (61-14)	XIII. (62-15)	XIII. (61-14)	XV-XVII. (63-1-6)	XIII. (61-14)	XIII. (62-14) (particular reading in Paris)	XIII. (62-14)	XIII. (62-14)	3, 58 (61-14)
XV. (63-1)	XV. (62-16)	XV. (63-10)		XV. (63-1)	XV. (62-15)		XV. (62-15)	App. 1, 29 (63-1)
XVI. (63-2)	XVI. (62-17)	XVI. (63-12)		XVI. (63-2)	XVI. (62-16) (particular reading in Paris, influenced by 61-6)		(62-16)	App. 2, 18 (63-2)
XVII. (63-3)	XVII. (62-18)		XVIII. (62-26 with influence of c. 27)	XVII. (63-3)	XVII. (62-17)		(62-17)	App. 1, 35 (63-3)
XVIII. (63-4)	XVIII. (62-19)		XVIII. (62-8)	XVIII. (63-4)	XVIII. (62-18)		(62-18)	App. 2, 19 (63-4)
XVIII. (63-5)	XVIII. (62-20)		XX. (63-9)	XVIII. (63-6)	XVIII. (62-19) (particular reading, influenced by 61-9)		(62-19)	App. 2, 20 (63-5)

XX. (63–6)	XX. (62–21)		XXI. (63–10)	XVIII. (63–8)	XX. (62–20)	(62–20)	App. 2, 21 (63–6)	
XXI. (63–7) (only here)	XXI. (62–22)		XXII. (63–11)	XX. (63–9)	XXI. (62–21) (particular reading, influenced by 61–10)	(62–21)	App. 2, 22 (63–8)	
XXII. (63–8)	XXII. (62–23)		XXIII. (63–12)	XXI. (63–10)	XXII. (62–22) (particular reading, influenced by 61–11)	(62–22)	App. 2, 23 (63–9)	
XXIII. (63–9)	XXIII. (62–24)		XXIII. (62–20)	XXII. (63–11)	XXIII. (62–23)	(62–23)	App. 2, 24 (63–10)	
XXIII. (63–10)	XXIII. (62–25) (particular reading)			XXIII. (63–12)	XXIII. (62–24) (particular reading)	(62–24)	App. 2, 25 (63–11)	
XXV. (63–11)	XXV. (62–26)				XXV. (62–25) (particular reading, influenced by 61–13)	(62–25)	App. 2, 26 (63–12)	
XXVI. (63–12)	XXVI. (62–27)				XXVI. (62–26)	(62–26)		
XXVII. (63–13) (only here)	XXVII. (62–28)				XXVII. (62–27)	(62–27)		
	XXVIII. (62–29)				XXVIII. (62–28)	(62–28)		
					XXVIII. (62–29+2nd part of 61–14)	(62–29)		
					XXX. (most part of 61–Insc. + 61–1)			
					XXXI. (61–2)			
					XXXII. (61–4)			
					XXXIII. (61–7)			
					XXXIII. (61–12)			
					XXXV. (63–10)			
					XXXVI. (63–11)			
					XXXVII. (63–12)			
					Mordek, <i>Bibliotheca</i> , pp. 569 and 788, thinks No. 62 might be followed by “ein Auszug aus dem thematisch verwandten Aachener Kapitular desselben Jahres (offenbar ließ sich der Kompilator von dem Prinzip leiten, nur solche Stellen aufzunehmen, die ihm vom Capitulare missorum Aquisgranense primum noch nicht angesprochen schienen)”. “Für Nr. 63 teilt er [= Sélestat 14 (104)] mit Cod. Paris Lat. 4995 die Textnähe zum verwandten Kapitular Nr. 62, ohne allerdings die Kapitel 23, 26+27 und 20 von Nr. 62 zu zitieren. Er bestätigt damit den von Boretius verkantten Parisinus-Text als eine eigene, wenn auch redigierte Version des Kapitulars Nr. 63, nicht 62.” Mordek, Hubert. “Weltliches Recht im Kloster Weißenburg/Elsaß. Hinkmar von Reims und die Kapitulariensammlung des Cod. Sélestat. Bibliothèque humaniste, 14 (104).” In <i>Litterae medii aevi. Festschrift für Johanne Auenrieth zu ihrem 65. Geburtstag</i> . Sigmaringen, 1988, pp. 69–85, here p. 80.			

Table B Text-comparison of two capitula-lists (Texts are based on the edition of Boretius with apparatus criticus)

Capitulare Aquisgranense, MGH Capit. 1, No. 61 + No. 63	MGH Capit. 1, No. 62 collated with No. 61 & 63
61–Ins. Capitula quae domnus imperator Aquis palatio constituit de illis hominibus qui propter eorum culpas ad mortem diiudicati fuerint, et postea vita eis fuerit concessa, si ipsi iustitiam ab aliis requisierint aut ab eis iustitiam quaerere voluerit, qualiter inter eos iudicium terminetur.	62–Ins. Capitula que domnus imperator Aquis palatio constituit in anno nono
61–1. Primum omnium de illis causis pro quibus iudicatus fuit ad mortem nullam potest facere repetitionem, quia omnes res suae secundum iudicium Francorum in publico fuerint vocatae. Et si aliquid in postmodum, postquam ei vita concessa est, cum iustitia adquirere potuerit, in qua libertate teneat et defendat secundum legem. In testimonio non suscipiatur nec inter scabinos legem iudicandam locum non teneat. Et si ad sacramentum aliquid ei iudicatum fuerit quod iurare debeat, si aliquis ipsum sacramentum falsum dicere voluerit, cum arma contendat. (... si aliquis ipsum ad sacramentum aliquid admallaverit, ipse semper ad iudicium Dei examinandus accedat. [Paris Lat. 4995])	62–28. Ut postquam quisque ad mortem fuerit iudicatus, neque iudex fiat neque scabinus neque testis neque ad sacramentum recipiatur; sed unde alii iurare debent, ipse semper ad iudicium Dei examinandus accedat.
61–2. Si alicui post iudicium scabinorum fuerit vita concessa, et ipse in postmodum aliqua mala perpetraverit et iustitiam reddere noluerit, dicendo quod mortuus sit et ideo iustitiam reddere non debeat, statutum est ut superiorem iudicium sustineat quod antea sustinere debuit. Et si aliquis adversus eum aliquid male fecerit, secundum aequitatis ordinem licentiam habeat suam iustitiam requirendi de causis perpetratis postquam ad mortem iudicatus est; de praeteritis maneat, sicut supra diiudicatum fuit.	
61–3. De latrone forbannito: ut liber homo qui eum suscepit XV solidos componat, et servus CXX percussionibus vapuletur.	62–3. De pace latronum. 62–11. De meziban, ut unusquisque comis alio mandet ut nullus eum recipere audeat; si liber eum susceperit, solidos XV componat; si servus, CXX ictus accipiat et insuper dimidium caput tundatur. (De meziban, id est de latrone forbannito, ut ... [Paris-Vatican])
61–4. Ut comes qui latronem in forbanno miserit vicinis suis comitibus notum faciat, eundem latronem a se esse forbannitum, ut illi eum non recipiant.	62–3. De pace latronum. 62–11. De meziban, ut unusquisque comis alio mandet ut nullus eum recipere audeat; si liber eum susceperit, solidos XV componat; si servus, CXX ictus accipiat et insuper dimidium caput tundatur. (De meziban, id est de latrone forbannito, ut ... [Paris-Vatican])
61–5. Ut nullus alius de liberis hominibus ad placitum vel ad mallum venire cogatur, exceptis scabinis et vassis comitum, nisi qui causam suam aut quaerere debet aut respondere. (... exceptis scabineis et qui illorum casas querendi aut respondere debent [Paris Lat. 4995])	62–13. Ut nullus ad placitum venire cogatur nisi qui causam habet ad querendam, exceptis scabinis. (... exceptis scabinis et vassallis comitum [Paris Lat. 9654])
61–6. Ut testes ad testimonium dicendum praemio non conducantur, et ut nullus testimonium dicat aut sacramentum iuret nisi ieiunus. Et ut testes, priusquam iurent, separatim discutiatur, quid dicere velint de illa re unde testimonium reddere debent.	62–16. De testibus, sicut in anterioribus capitulis continetur, ut ieiuni ad placitum veniant, et postquam comederint nec testimonium dicere nec sacramentum iurare possent. (Et ut priusquam iurent separatim discutiatur. [compl. in Paris Lat. 9654])
61–7. Ut nullus quislibet missus noster neque comes neque iudex neque scabineus cuiuslibet iustitiam dilatare praesumat, si statim adimpleta poterit esse secundum recitandam; neque praemia pro hoc a quolibet homine per aliquod ingenium accipere praesumat.	62–17. Ut nullus praemium recipiat propter iustitiam tollendam.
61–8. Ut mercatus die dominico in nullo loco habeatur nisi ubi antiquitus fuit et legitime esse debet.	62–18. De mercatis ut in die dominico non agantur, sed in diebus in quibus homines ad opus dominorum suorum debent operari.
61–9. Ut nullus cogatur ad pontem ire ad flumen transeundem propter telonei causam, quando ille in alio loco compendiosius illud flumen transire potest. Similiter et in plano campo, ubi pons nec treiectus est, ibi omnimodis praecipimus ut teloneum non exigatur.	62–19. De pontibus et viis, ut nullus ubi teloneum accipiat. (... et ut nullus cogatur ad pontem ire ad flumen transeundem propter telonei causam quando ille in alio loco compendiosius illud flumen transire potest. [compl. in Paris-Vatican])

61–10. Ut presbiter qui sanctum crisma donaverit ad iudicium subvertendum, postquam de gradu suo expoliatus fuerit, manum amittat.	62–21. Si presbiter crisma dederit, ab episcopo degradetur et postmodum ad iudicem manu perdat. (... si propter iudicium subvertendum hoc fecerit. [compl. in Paris-Vatican])
61–11. Ut iudices, advocati, praepositi, centenarii, scabinii, quales meliores inveniri possunt et Deum timentes, constituantur ad sua ministeria exercenda. (... constituantur ad sua ministeria exercenda cum comite et populo elegantur mansueti et boni [Paris Lat. 4995])	62–22. Ut viceomini, prepositi, advocati boni et veraces et mansueti cum comite et populo eligentur. (Ut iudices, viceomini, prepositi, advocati, centenarii, scabinei boni et veraces et mansueti cum comite et populo eligentur et constituantur ad sua ministeria exercenda. [Paris-Vatican])
61–12. Ut nemo propter cupiditatem pecuniae et propter avaritiam suam prius detur pretio et futura questione sibi praeparet, ut duplum vel triplum tunc recipiat, sed tunc tantum quando fructum praesens est illos comparet.	62–24. De debitis pauperum anterioribus et negotia facienda antequam fructum collegatur: omnino inantea cavenda. Ut unusquisque presentis anno sive liberum sive servum suum de famis inopia adiutorium prebeat. (... omnino inantea cavenda hoc ex ore proprio locuti sumus. Unusquisque ... [compl. in Paris-Vatican])
61–13. Ut in locis ubi mallos publicos habere solent, tectum tale constituatur, quod in hiberno et in aestate ad placitos observandos usus esse possit.	62–25. Ut loca ubi placita esse debent bene restaurare faciant, sicut ore proprio diximus. (Ut loca ubi placita esse debent bene restaurata frant, sicut ore proprio diximus quod in hiberno et in hiberno et in aestate ad placitos observandos usus esse possit. [compl. in Paris-Vatican]) (... sicut ore proprio diximus, comitibus nostris. [compl. in Nürnberg Cent. V, App. 96])
61–14. Ut sacramenta quae ad palatium fuerint adhramita in palatio perficiantur, et si consacramentales homines cum ipso venire renuerint, iussione dominica cum indiculo aut sigillo ad palatium venire cogantur.	62–29. Sacramenta vero quae ad palatium fuerint iudicata ut ibidem finiantur. (... Et si consacramentales homines cum ipso venire renuerint, iussione dominica aut indiculo ad palatium venire cogantur. [compl. in Paris-Vatican])
63–1. De ecclesiis non bene restauratis.	62–1. De ecclesiis nondum bene restauratis.
63–2. De causis quae cotidie non cessant.	62–2. De causis quae cotidie non cessant.
63–3. De concordia fidelium nostrorum.	62–4. De concordia fidelium nostrorum.
63–4. De fugitivis quos non cessant recipere et abscondere.	62–5. De fugitivis quos non cessant recipere et abscondere.
63–5. De vagis peregrinis.	62–6. De vagis peregrinis. (De vagis peregrinis qui propter Deum non vadunt [Paris-Vatican])
63–6. De homicidiis.	62–7. De homicidiis.
63–7 (only in Nürnberg Cent. V, App. 96). De monetis statutum est ut nullus audeat denarium merum et bene pensantem reiectare; et qui hoc facere presumpserit, si liber fuerit, bannum componat, si servus, corporali disciplina subiaceat. Et in cuiuscumque comitatum et potestate inventum fuerit et denarius ex dominica moneta bene merus et pensantes reiectaverit, episcopus, abba aut comes, in cuiuslibet potestate ut diximus inventi fuerit et hoc emendare distulerint, honore priventur.	62–8. De monetis et mensuris modiorum vel sistariorum.
63–8. De mensuris modiorum vel sistariorum.	
63–9. De beneficiis nostris non bene conditictis.	62–9. De beneficiis nostris non bene conditictis. (De beneficiis nostris non bene conditictis. Et ut nomae vel decimae per omnia donentur. [Paris-Vatican])
	62–10. De clericis et vassallis ut nullus sine licentia domini sui recipiatur.
	62–12. Ut nullus absque iusticia pauperem et inopem expoliare presumat.
	62–14. Ut nullus audeat prestare adiutorium ei qui male facit. (... aut respondere. [compl. in Paris Lat. 9654])
	62–15. Ut missi nostri per Dei misericordiam viriliter in omnibus agant.

	62–20. Ut omnes iudicium Dei credant absque dubitatione.
	62–23. Si vero advocatus sacramentum contra alium habuerit et iurare non potuerit, propter hoc beneficium suum non perdat. (... et iurare non potuerit aut aliquid per iustitiam reddiderit, propter ... [Paris Lat. 4995])
	62–26. De traditionibus ut in abscondito non frant propter conturbationes diversas. (62–26 & 27: De traditionibus seu comparationibus ut nullus in absconso non faciat. [Paris Lat. 4995])
	62–27. Ut nullus comparationem faciat cum paupere dolose nisi per iusticia. (62–26 & 27: De traditionibus seu comparationibus ut nullus in absconso non faciat. [Paris Lat. 4995])
63–10. De hospitalitate et susceptione iterantium tam missorum nostrorum quam relictorum bonorum hominum.	
63–11. Quod missos nostros ad vicem nostram mittimus.	
63–12. De illis qui vinum et annonam vendunt antequam colligantur et per hanc occasionem pauperes efficiantur.	(62–24. De debitis pauperum anterioribus et negotia facienda antequam fructum collegatur: omnino inantea cavenda. Ut unusquisque presentis anno sive liberum sive servum suum de famis inopia adiutorium prebeat.)
63–13 (only in Nürnberg Cent. V, App. 96). De iudeis constitutum est, ut si aliquis iudeus super christiano propter suam querellam aliquid interpellaverit et cum testibus fuerit ei iudicatum adprobare, III. testes idonei cristiani illi sufficiant, et habeat iudeus secundum estimationem rei IIII. aut VIII. aut VII. Si vero christianus iudeum interpellare voluerit et de qualibet re, similiter cum tribus testibus idoneis christianis vel tribus iudeis illi sufficiat. Statutum est, ut nullus de iudeis in die dominica christianum hominem in suo opere collocare presumat; et si repertum fuerit et conlocaverit, perdat ipse iudeus quod proinde dederit, et ipse christianus fiat correptus, ita ut alii in die dominica opus servili agere non audeant.	