

Charters in Catalonia: the nature of the material and its problems

When I was a first-year undergraduate, an academic said to me, “I’ve been working on charters for six years now and I **think** I’m beginning to understand what they’re about.” I now realise why they hesitated. Defining or explaining ‘the charter’ is not easy. The definition I use here, ‘a document constructed for public reference, by which one party affirms the rights of another’,¹ is insubstantial because it aims to include many things. It cannot just cover records of transactions; many documents which are included in diplomatic collections do not involve transactions, but promises, and not always of land although these obviously have the best potential for survival:² in the case of manumissions of slaves, the nature of the goods is, as Graham Swift had it, “perishable”, and so thus is the relevance of its record.³ Likewise documents such as judicial hearings are not strictly speaking descriptive of transactions, but rather agreements, not necessarily carried out, to perform an action, not necessarily land-related. Oaths of homage, also, need not include lands.⁴ Even a land charter might be merely a confirmation, by which therefore nothing actually changed hands. Semantics are not necessarily helpful here.⁵

¹ For some account of other definitions offered, see A. Petrucci, “The Illusion of Authentic History: documentary evidence” in *idem*, Writers and Readers in Medieval Italy. Studies in the History of Written Culture, transl. C. Radding (Yale 1995), pp. 236-250 at pp. 236-238.

² The most surprising example I know of being Vic 549, in which one Ramió gave a pledge of security that he would not prosecute his erstwhile housemate Juli for a number of thefts from him while they shared the house; this document is discussed in A. J. Kosto, “Laymen, Clerics and Documentary Practices in the Early Middle Ages: the example of Catalonia” in Speculum Vol. 80 (Cambridge MA 2005), pp. 44-74, at pp. 44-46. That study raises many of the issues I deal with in this chapter, but tends to use them to answer different questions. This chapter was complete before I obtained Kosto’s article, and I have not tried to integrate it.

³ Freeing of slaves e. g. Vic 161 (933); see P. Bonnassie, La Catalogne du Milieu du X^e à la Fin du XI^e Siècle: croissance et mutations d’une société (Toulouse 1975, 1976), I pp. 298-300. The Swift quote, G. Swift, Last Orders (London 1996), p. 1.

⁴ On such documents see M. Zimmermann, “Aux origines de Catalogne féodale: les serments non datés du

This is perhaps only a problem in as much as charters proper, whatever they may be, have a field of their own for their study,⁶ which has thus in some ways been isolated from other documentary or narrative sources, despite the fact that charters often contain narrative material. While there is a body of opinion in the field that there is a need for a recognised field of ‘complete diplomatic’, this is only to recognise that there is also a deep-seated conviction that diplomatic, as concentrated on questions of authenticity, Papenbroeck’s *discrimen veri ac falsi*, is a pursuit in itself.⁷ This, of course, it is, but a historian may be forgiven for finding it an incomplete treatment of their source material. Furthermore, there is in this approach a danger that diplomatic is left for the diplomatists. For the Anglo-Saxonist, for example, Sawyer’s famous handlist, with its comfortingly complete references and judgements of authenticity,⁸ may reassure its users that the work of criticism has here been done and the

règne de Ramon Berenguer I^{er}” in J. Portella i Comas (ed.), La Formació i Expansió del Feudalisme Català: actes del col·loqui organitzat pel Col·legi Universitari de Girona (8-11 de gener de 1985). Homenatge a Santiago Sobrequés i Vidal, Estudi General: revista del Col·legi Universitari de Girona, Universitat Autònoma de Barcelona Nos. 5-6 (Girona 1986), pp. 109-151, with English summary p. 557; A. J. Kostó, Making Agreements in Medieval Catalonia: power, order and the written word, 1000-1200, Cambridge Studies in Medieval Life and Thought 4th Series 51 (Cambridge 2001), pp. 53-59.

⁵ Similar problems of definition addressed in B.-M. Tock, “L’acte privé en France, VII^e siècle - milieu du X^e siècle” in Mélanges de l’École Française de Rome: moyen âge Vol. 111 (Rome 1999), pp. 499-537 with résumé p. 977; several of the participants in this colloquium complain in their papers that the division adopted (see F. Bougard, “Avant-propos”, *ibid.* p. 487) was unhelpfully restrictive.

⁶ A short summary is L. E. Boyle, “Diplomatic”, in J. Powell (ed.), Medieval Studies: an introduction (Syracuse 1976), pp. 69-101; a recent thorough manual of the field is O. Guyotjeannin, J. Pycke & B.-M. Tock, La Diplomatique Médiévale (Turnhout 1993).

⁷ See the account of the development of diplomatic studies offered by H.-H. Kortüm, Zur Papstliche Urkundensprache im frühen Mittelalter: die päpstlichen Privilegien 896-1046, Beiträge zur Geschichte und Quellenkunde des Mittelalters 17 (Sigmaringen 1995), pp. 13-19, citing Fichtenau’s 1961 expression of the need for an “allgemeine Diplomatik” at p. 9, n. 3 (the Fichtenau article being “La situation des études de diplomatique en Autriche” in Bibliothèque de l’École des Chartes Vol. 119 (Paris 1961), pp. 21-31, quoted by Kortüm from the German translation “Zur Lage der Diplomatik in Österreich” in H. Fichtenau, Beiträge zur Mediävistik: ausgewählte Aufsätze. II: urkundenforschung (Stuttgart 1977), pp. 1-17). Kortüm goes on to undermine several of the classic discipline’s assumptions in his book; it has been a great influence on my thinking in this chapter.

⁸ P. Sawyer (ed.), Anglo-Saxon Charters: an annotated list and bibliography (London 1968), its accuracy and completeness having since been maintained by Susan Kelly, among others, in a form currently only accessible on the World-Wide Web thanks to the work of Sean Miller, at <http://www.trin.cam.ac.uk/sdk13/chartwww/eSawyer.99/eSawyer2.html>, last modified 3rd May 1999 as of

documents are safe to use in a way that they would not contemplate, for example, with a chronicle. The result of this is often that a charter is taken to be a literal and objective statement about an event or transaction, which it should not be.⁹ The writers of charters had as many interests of their own as any chronicler, and though their documents were more constrained by form and perhaps by legal process, the variation in what we have must make it clear that this makes them more puzzling texts, not less.¹⁰

In fact charters need to be approached as both pieces of historical or perhaps political writing and as legal records, and I here explore the problems involved in doing this, before going on to do it in later chapters. Partly, then, this serves as an introduction to the material. Mostly, it aims to avoid continual qualifications and hedging of each judgement of a source made in what follows, by expressing these concerns fully beforehand.

Beyond the *Discrimen*: the reliability of charter contents

This is not to say that establishing the authenticity of a document is not a valuable exercise: it is an essential first step. It is however only the first step, and rather than making a document historiographically safe, it rather only determines which set of questions then need to be asked of it. A false charter is naturally still evidential for the wishes, aims and indeed knowledge of its

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⁹ Cf. Petrucci, "Illusion", citing at p. 237 L. Schiaparelli, *Diplomatica e storia* (Firenze 1909), p. 7: "Documents do not narrate historical facts, they are themselves the written, historical-judicial deed... ; they are primary historical sources" (transl. C. M. Radding). Petrucci went on to argue that in fact documents are primary sources only for the processes of their own production ("Illusion", p. 239).

¹⁰ Similar stresses are to be found in the work of Patrick Geary, *Phantoms of Remembrance: remembering and forgetting in the tenth and eleventh centuries* (Princeton 1985) pp. 81-114, & "Monastic Memory and the Mutation of the Year Thousand" in B. Rosenwein & S. Farmer (edd.), *Monks and Nuns, Saints and Outcasts: Essays in honor of Lester K. Little* (New York 2000), pp. 19-36.

forgers, and its acceptance or not tells us something of those of its contemporaries. What an ‘authentic’ charter tells us is however harder to describe. It is not for example, that there was a gathering of the people it names, at which the transaction it describes took place, and was written up by the scribe who sets his name to the document. Sometimes—often—it may be, but we can show easily from this material that it is not safe to assume this without consideration.¹¹

When is a scribe not a scribe?

One of the most basic assumptions one might make of a charter is that he who claims to have written it did in fact do so. Thus when we find that at the monastery of Sant Joan de Ripoll, much of whose early archive survives in its original form, almost all of the documents preserved there from between 910 and 921 name one Gentiles as scribe,¹² the natural conclusion is that he was effectively operating as the monastery’s notary.¹³ In fact it seems that his importance was less functional than this, as palaeographical examination of the documents by Udina revealed that in his estimation only six of the twenty-one

¹¹ Current work on the charters of St Gallen is raising very similar concerns; though nothing is published as yet, the papers of Karl Heidecker (“The Saint Gall charters revisited: an opportunity for rewriting the diplomatics of the Carolingian private charter”) and Bernhard Zeller (“Writing the Saint Gall charters: scribes, scripts and texts”) in the session ‘An Exemplary Case for Studying Literacy in the Carolingian Period: towards a new edition of the Saint Gall charters’, International Medieval Congress, Leeds, 13th July 2005 paralleled very closely much of what I go on to say here.

¹² His name is given as scribe in Cat. Car. IV 120 & Condal 27-29, 32, 34-37, 41, 42, 45, 46, 50, 53, 56, 58-61, 64 & 71; he also appears in Cat. Car. IV 119 & Condal 72, 121 & 128.

¹³ Suggestions that some kind of notariate persisted in the area are made by F. Udina Martorell (ed.), El Archivo Condal de Barcelona en los Siglos IX-X: estudio crítico de sus fondos, Textos 18/Publicaciones de le Sección de Barcelona 15 (Madrid 1951), pp. 19-23, but if it did not, Sant Joan might have had to invent it. With the exception in Taradell discussed at pp. 49-53 below, however, there is no use of the word ‘notarius’ for a scribe from the area until the eleventh century: see A. M. Mundó, “Le statut du scribeur en Catalogne du IX^e au XI^e siècle” in M.-C. Hubert, E. Poulle & M. H. Smith (edd.), Le Statut du Scribeur au Moyen Âge. Actes du XII^e Colloque Scientifique du Comité Internationale de Paléographie Latine (Cluny, 17-20 Juillet 1998), Matériaux pour l’Histoire publiées par l’École des Chartes 2 (Paris 2000), pp. 21-28 at pp. 25-26. I have therefore avoided the term ‘notary’ hereafter.

documents which claim Gentiles as scribe actually bear signatures in the same hand.¹⁴ Presumably then it was important for documents to bear the name of the approved writer, even if he had not in fact drawn them up.¹⁵

“Is everybody in? The ceremony is about to begin.”¹⁶

If scribes might sign the names of other scribes, they might also, we may think, sign for other people. In Udina’s palaeographical summaries of the documents of the Arxiu Comtal de Barcelona, he considered a document to be authentic if it bore autograph signatures in hands different from the scribe, although he admitted cases where only a cross had been so completed, to allow for persons unable to write.¹⁷ Those where all signatures were the work of the scribe he considered ‘contemporary copies’. We are occasionally told that a signatory was unable to write, usually because of illness, but occasionally through lack of the skill.¹⁸ Most startling in this respect are the nuns of Sant Pere de les Puelles de Barcelona in 986 (possibly very new recruits, as the nunnery was according to some reports emptied by the Muslims in the 985 sack of the city),¹⁹ who were made to profess: “we the nuns know letters and read

¹⁴ These being Condal 35, 41, 46, 56, 60 & 61, though Udina did not have access to the original of Cat. Car. IV 120 (which he treats as Condal ap. II A). The reasoning is presented in his Archivo Condal, p. 205.

¹⁵ It is not just this set of Catalan documents which demonstrate this possibility. It is also seen at St Gallen (see n. 11 above) and the analysis of papal documents carried out by Kortüm ran up against similar issues: Zur Päpstliche Urkundensprache, pp. 396-402. Contrast, particularly given his pseudo-Roman titles, the *sacriscrinarius* and *primiscrinus* of the Cathedral of Vic, Madeix (seen as such in Vic 517 & 543 & 620 respectively), especially because no charters survive in which he is named as scribe.

¹⁶ Jim Morrison, ‘Awake’, on *idem*, An American Prayer (Elektra 1970).

¹⁷ Archivo Condal, pp. 14-18.

¹⁸ Illness: HGL V 86, Montserrat 73, or Vic 625; blindness in Condal 183 (“*Senderedus monachus, qui non potuit suum nomen scribere per cecitatem oculis suis*”). Lack of writing ability in Sant Cugat 217, on the part of the young Count Ermengol I no less. Other such references are collected by J. Alturo i Perucho in his “Le statut du scribeur en Catalogne (XII^e-XIII^e siècle)” in Hubert, Pouille & Smith, Le Statut du Scribeur, pp. 41-55, at p. 41 & n. 1, of which despite his title most are from our period.

¹⁹ See Introduction above, pp. 21-22.

but do not know how to write, but with our hands, by the grace of God, have confirmed".²⁰ This is presumably the practice of finishing a *signum* cross which Udina notes, but it makes an odd contrast to the more schooled nuns of Gentiles's Sant Joan de Ripoll, who are at least once found signing documents autograph.²¹ In this case it seems that the scribe laid down guide signatures for them to follow, and we see this practice elsewhere.²² Would we be able to tell if the person so guided had never signed? And if those present at a transaction were unable to write, would the scribe not supply the names totally? Not every editor has been so exacting as to try and find autograph traces to each *signum*, and not every signature used one.

We approach questions of literacy here which it is not the place of this study to answer.²³ It is certainly clear that in this area many people could write. We even find people writing their own charters, but even if these people, who are not always said to be clerics, were not the rule, it seems that many people could sign their name; so much is clear from the variety of hands, Visigothic, more Frankish, or wobbly or angular-looking capitals, in which they did so.²⁴ It

²⁰ Condal 212: "*nos Deodicas litteras scimus et legimus sed scribere nescimus, sed manibus nostris, Dei gracia, firmavimus...*".

²¹ Condal 128, where four sign autograph (Udina, Archivo Condal p. 286); they also appear in Condal 163 but this is a later copy. They appear without signing autograph in R. Ordeig i Mata, "Ató, bisbe i arquebisbe de Vic (957-971), antic arxiprest-ardiaca de Girona" in Studia Vicensia Vol. 1 (Vic 1989), pp. 61-97, ap. 26.

²² Condal 82 & 220.

²³ Some initial answers in R. Collins, "Literacy and Laity in Early Medieval Spain" in R. McKitterick (ed.), The Uses of Literacy in Early Medieval Europe (Cambridge 1990), pp. 109-133, repr. in R. Collins, Law, Culture and Regionalism in Early Medieval Spain, XV.

²⁴ Holograph charters: Vic 24, 192 & 228. The latter two both show a married man with no clerical title as scribe. However it is not clear that ecclesiastics (who were often married in this area: see for example Archdeacon Sendred in Urgell 286) always used their titles or were accorded them by other scribes; see Alturo, "Le statut du scripteur", p. 42 & n. 5. For an impression of the variety of scripts used by signatories, see Udina, Archivo Condal, Láminas III, IV, VII or most of all XI. References to work on this are provided by J. Alturo i Perucho, "La cultura llatina medieval a Catalunya. Estat de la qüestió" in F. Udina i Martorell (ed.), Symposium Internacional sobre els Orígens de Catalunya (segles VIII-XI) (Barcelona 1991-1992); also published as Memorias de le Real Academia de Buenas Letras de Barcelona

is also clear however that such people did not always do so, even when others did and the charter would thus be qualified as 'original' by Udina's criteria. What does this mean?

One obvious but unsettling possibility is that it means that they were not there for the signing of the charter. Certainly it is clear that a charter does not automatically list all those who were present; witness lists compared between multiple transactions carried out by the same parties on the same day, and therefore probably at the same gathering, show us that not everyone was involved in all of the documents.²⁵ Is the reverse also true however? If it was sufficiently important to have a certain person's name on a charter, would this necessarily wait for their presence? In at least two cases we know that it need not; the former, and perhaps unrepresentative, is an unusually large hearing at Sant Joan de Ripoll,²⁶ but another is a sale from 1000 by Count-Marquis Ramon Borrell of Barcelona to one Ramon Guisad. Here, Countess Ermessenda's signature was made by the scribe, but a following phrase which records those who were present when she confirmed the document was added in a different ink.²⁷ This suggests fairly clearly that the document was taken to Ermessenda at a different gathering from that at which its contents were first settled, since the witnesses to her confirmation were not listed among the witnesses named by the hand which wrote her name. In this case it is only a change of ink that alerts

Vols. 23 & 24 (Barcelona 1991 & 1992), I pp. 21-48 at pp. 46-47, but see also A. M. Mundó, "Notas para una historia de la escritura visigótica en su periodo primitivo" in *Bivium: Homenaje a Manuel Cecilio Díaz y Díaz* (Madrid 1983), pp. 175-196.

²⁵ Such cases can be found in HGL V 193 & 194, or Vic 460 & 461, in which latter pair only the (autograph) presence of the priest Samsó at both gatherings makes the common venue clear.

²⁶ Cat. Car. IV 119: see Chapter 2 below, pp. 94-98.

²⁷ Comtal 46; commentary, G. Feliu & J. M. Salrach (edd.), *Els Pergamins de l'Arxiu Comtal de Barcelona de Ramon Borrell a Ramon Berenguer I: estudi i edició*, Col·lecció Diplomataris 18-20

us, and this in an era when documents, especially comital ones, were becoming more verbose;²⁸ but even so it loosens several assumptions and should challenge us to question them on a wider basis.²⁹ Was a witness necessarily at the gathering at which a transaction was carried out? Or need there have been such a gathering at all? If a document could be taken to someone to be signed, what guarantee have we that the people a document names were ever in the same place? Certainly we should avoid assuming that these things were necessarily all done at once.

The voice of the charter

In one case from Vic it is clear that the transactors themselves were not at the gathering together. This is clear from the fact that one Ferriol was named as their *firmator*, and was described as undertaking to accept both the charter and the price of the land being transferred and ensure that each wound up with the other party.³⁰ This was clearly an unusual circumstance; but would such arrangements always have been stated? This document is moreover voiced at the halfway point; though it states itself to be equivalent to the money exchanged for it, it also makes it clear that the transfer had not yet taken place,

(Barcelona 1999), I pp. 319-320.

²⁸ A concern most compactly expressed by D. Barthélemy, "Debate: the feudal revolution. I", transl. J. Birrell, in Past and Present No. 152 (Oxford 1996), pp. 196-205 at pp. 199-200 but easily observable from the corpus. Of course the more recent documents with which one is concerned are, the better is presumably their chance of preservation, which may affect this impression, but it seems to me that the average length of a document also increases. Mundó, "Statut du scripteur", p. 24, notes Bonhom of Barcelona whose scrupulousness led him to note in one charter that it had been written "*cum duas tinctas ad duas tempores*"; while Bonhom was unusual in his informativeness (Mundó notes another charter in which he apologised for having written while sleepy), he may not have been in the practice he describes. Mundó gives no references for these documents, but the latter is identified as Sant Cugat 267 by J. A. Bowman, Shifting Landmarks: property, proof, and dispute in Catalonia around the year 1000, Conjunctions of Religion and Power in the Medieval Past (Ithaca 2004), p. 99 n. 74.

²⁹ Petrucci, "Illusion", pp. 247-248, notes several cases in fourteenth- and fifteenth-century Italy where it can be shown that the final version of an *instrumentum* invented extra participants or dignities for them.

³⁰ Vic 67.

and this curious Schrödinger's Cat situation, where the charter is the statement of something yet to happen, is the act's permanent record.

Such reflections on the ways in which scribes gave the charters voice rapidly illustrate that such impressions of immediacy cannot be trusted. To take an elaborate but forceful example, let us take the act recording the consecration of Santa Maria de Ripoll's new church in 977.³¹ This was almost certainly composed by the learned Bishop of Girona, also Count of Besalú, Miró Bonfill, and it is partly past tense and partly present. The point at which it changes is after a description of the consecration of the several separate altars, as the assembled prelates seek to impress upon the local counts that the monastery's possession of its various goods, "just as the schedule already prefaced teaches", are placed beyond secular intervention. From this, and from the slightly different final witness list, it is clear that this change of tense reflects a move from an occasion past to a different, notionally present one.

The elaborate and lengthy document thus stands between the two occasions grammatically; recording one as already past, the second, the proclamation of the quasi-royal immunity,³² unfolds in the text. This part of the text was presumably written before the second gathering; the former, given its detail, was probably composed after the ceremony, as beforehand the final order of events could not have been known. The act as it stands is thus not from either of the ceremonies it describes, or the date which it gives, and it adopts a

³¹ Cat. Car. IV 1242; see J. M. Salrach, "El comte-bisbe Miró Bonfill i l'acta de consagració de Ripoll de l'any 977" in Estudis de Llengua i Literatura Catalanes Oferts a R. Aramon i Serra en el seu setanté aniversari IV, Estudis Universitaris Catalans Vol. 26 (3^a època, Vol. 4) (Barcelona 1984), pp. 303-318.

³² The document mimics the phrasing of royal precepts in its exclusion from jurisdiction in the monastery's lands. Cat. Car. IV 1242: "... *nullus comes, pontifex, iudex publicus vel aliqua dominatio in praedictis rebus habeat potestatem causas distringendi nec rationes exercendi...*". Cf. Salrach, "El

narrative construction of the ceremony. Especially since consecrations were formal occasions whose rules were laid down,³³ this narrative was under a strong impulse to say the correct thing. Santa Maria's case, with numerous altars whose different patrons made different collaborations of bishops appropriate, bent this pattern but if events had in fact broken the convention, we cannot expect that this document would record this for us.

Truth in the eyes of the redactor

On the other hand, at times a charter fairly clearly records only an intent and not an actual transfer, suggesting that in fact the text was fixed before events were.³⁴ Most obvious in this frame are judicial sentences which later documents reveal were unenforceable. In Chapter 4 I discuss a case in which the monastery of Sant Benet de Bages took one Adelaide to court, and won.³⁵ A later text reveals that in fact she refused to release the land, on the grounds that she had a charter from the late Count-Marquis Borrell II of Barcelona, Girona, Osona and Urgell for it.³⁶ It was decided that since the fault was not hers – Borrell had unjustly appropriated the land before giving it to her late husband – she should be compensated for it. This is to say that not only was her charter, which is not preserved, illegal but still a kind of valid, but that if we

comte-bisbe”, pp. 311-312.

³³ R. Ordeig i Mata, “La consagració i la dotació d’esglésies a Catalunya en les segles IX-XI” in Udina, *Symposium Internacional*, II pp. 85-101. Note that the Second Council of Braga required that a bishop should have a charter of a new church's endowment presented to him before he proceed to consecration (A. J. Kostó, “Reasons for Assembly in Catalonia and Aragón, 900-1200” in P. S. Barnwell & M. Mostert (edd.), *Political Assemblies in the Earlier Middle Ages*, Studies in the Middle Ages 7 (Turnhout 2003), pp. 133-148, at p. 137, citing J. Vives (ed.), *Concilios Visigóticos e Hispano-Romanos*, España Cristiana: textos 1 (Barcelona 1960), II Braga V). This means that the Catalan *dotalia*, which almost always describes the actual ceremony too, is formulaically self-contradictory.

³⁴ Cf. Petrucci, “Illusion”, p. 248, where he limits this observation to *concessiones* only; I am not sure why this could not be the case with any document however.

³⁵ P. 239; the charter is Manresa 277.

only had the former of the two documents, we would never know that the sentence had not been executed as it is recorded.³⁷ Examples can easily be multiplied: a 987 hearing before Borrell heard that a cleric by the name of Esteve had ordered in his will that one of his alods be sold and the money sent to San Pietro di Roma along with his body, but that his executors had decided it would in fact be simpler to give the alod itself to Saint Peter's nearer house at Rodes. His daughter, to whom the alod was to have been sold, understandably refused to relinquish it, as did her husband, and it was only after their death that their daughters could be cowed into executing their grandfather's executors' version of his will.³⁸ If we had Esteve's will rather than this later document, we would know none of this. One might compare discrepancies between the execution of part of Count Borrell's own will and his actual testament of a few months before.³⁹

A further example: in 1002 the castellan Sendred de Gurb was judicially sworn to be holding the castle of Queralt unjustly, and here we have no testimony to his resistance.⁴⁰ Nonetheless, it is clear from later transactions that his family still controlled the castle years later,⁴¹ which suggests that even if the cathedral of Urgell, whose title the hearing had vindicated, had been able to

³⁶ Cat. Car. IV 1864.

³⁷ Similar 'faulting' of a charter can be seen in Sant Cugat 464, in which Count-Marquis Ramon Borrell is said to have confirmed a charter made of some land before realising that in fact the land was his; this apparently made both charters invalid, but the unlucky beneficiary did not release the land. He is not recorded as having been as successful in his resistance as was Adelaide however.

³⁸ VL XIII ap. XX.

³⁹ Urgell 232 & 233, though 233 is only the bequests relevant to Urgell; nonetheless, not all the almsmen for the county whom he names in the former document act in the latter nor are all the properties bequeathed as assigned.

⁴⁰ Urgell 287.

⁴¹ A. Benet i Clarà, La Família Gurb-Queralt (956-1276). Senyors de Sallent, Olò, Avinyó, Manlleu, Voltregà, Queralt i Santa Coloma de Queralt (Sallent 1993), pp. 46-47.

remove him from it they had had to concede it again in the next generation. The charter as we have it is thus empty of force. Sendred had however presented a charter of his own in defence of his claim, and while this was not contested, Bishop Sal·la of Urgell pleaded for an adjournment and then at a later ceremony brought two ecclesiastics as witnesses whose combined testimony he presumably considered to outweigh the charter. The document however stops with their testimony; no final verdict by the judges is recorded, and perhaps the document as we have it is an incomplete redaction made up for a ceremony which did not go as expected. Numerous possible outcomes thereby hang from this partial record.

“Take two”: the endowment charters of Sant Benet de Bages

In situations such as these it is easy to see how we might have too few documents. In others however we can have too many. Sometimes this is simply down to forgery; take the case of the endowment acts of Sant Joan de Ripoll.⁴² In others however the situation is not so simple. The endowment of the monastery of Sant Benet de Bages in 966 was a solemn occasion to which various contacts of Sal·la, its powerful founder, came.⁴³ We know of it from three documents, of which due to losses in Barcelona during the Spanish Civil War two sadly only survive in typescript transcripts.⁴⁴ The first is however original.⁴⁵ The three documents do not entirely agree, as the following comparison will make clear. (Bold type indicates some of the text not common

⁴² J. Jarrett, “Power over Past and Future: Abbess Emma and the Nunnery of Sant Joan de les Abadesses” in *Early Medieval Europe* Vol. 12 (Oxford 2004), pp. 229-258 at pp. 235-241.

⁴³ On Sal·la of Bages see pp. 228-232 below.

⁴⁴ Cat. Car. IV 995B & 996.

⁴⁵ Manresa 69.

to all the texts – substantial passages shared by the first two only have not been marked thus – and the italics in Manresa 69 indicate autograph signatures.)

Manresa 69 (original)

In the name of God. I
Sal·la,

donor,

it seems great to me
and licit enough to
build the house of
God everywhere and
to honour it with and
concede to it my
possessions, hearing
the preaching and
warnings of the Holy
Fathers that alms
may free the soul
from death, knowing
myself to be daubed
with the stains of sin,
anxious for the mercy
of the highest
heavens, begging
their mercy so that
God may be pious
and merciful on my
sins. On that account
I concede and hand
over to the house of
Saint Benedict under
the command of the
Most Blessed Peter,
prince of the Apostles,

houses, courtyards
and orchards, lands
cultivated and
uncultivated, woods,
paddocks, meadows,
pastures, streams
and channels, vines,
fruiting or non-
fruiting trees, which
came to me as much
from purchase as

Cat. Car. IV 995B

In the name of God. I
Sal·la,

donor,

it seems great to me
and licit enough to
build the house of
God everywhere and
to honour it with and
concede to it my
possessions, hearing
the preaching and
warnings of the Holy
Fathers that alms
may free the soul
from death, knowing
myself to be daubed
with the stains of sin,
anxious for the mercy
of the highest
heavens, begging
their mercy so that
God may be pious
and merciful on my
sins. On that account
I concede and hand
over to the house of
Saint Benedict under
the command of the
Most Blessed Peter,
prince of the Apostles
at Rome, that is,

houses, courtyards
and orchards, lands
cultivated and
uncultivated, woods,
paddocks, meadows,
pastures, streams
and channels, vines,
fruiting or non-
fruiting trees, which
came to me as much
from purchase as

Cat. Car. IV 996

In the name of God. I
Sal·la, **with the
assent and will of
the lord Count
Borrell, am** donor

to the house of
Saint Benedict **of the
monastery, in
subjection to Saint
Peter
at Rome,**

from exchange, and all these things are in the county of Manresa or in its bounds, in the place which they call l'Angle. All these things are bounded: from the eastern part on the ridge or the street, and from the south on the land of **Dató or his heirs and on the street,**

and from the west on Montpeità, **and** from the round on **the houses of Bonència or her heirs** or the **River Llobregat**. And in Secabecs two pieces of vineyard with their boundaries. And in another place on the Riu de Sant Fruitós thus I give houses with **their** dovecote and cultivated and waste land. **All these things are bounded: from the eastern part on the street, from the south on the land of Adroer or his heirs, from the west on the river, from the round on the land of Queno or his heirs, just as is described in my scriptures.** And in another place the castle which is called Maians with its bounds except the

from exchange, and all these things are in the county of Manresa or in its bounds, in the place which they call l'Angle. All these things **written above** are bounded: from the eastern part on the **highest** ridge or the street, and from the south on the land of **Susanna or her heirs or on the cave or on the rock of Montpeità,** and from the west on Montpeità **and it reaches then as far as the river Llobregat,** from the round on Navarcles or **on** the Llobregat. And in Secabecs two pieces of vineyard with their boundaries. And in another place on the Riu de Sant Fruitós thus I give houses with **the** dovecote and cultivated and waste land **with their boundaries.**

And in another place the castle which is called Maians with its bounds except the

the castle which **they call** Maians with its bounds except the

alod of Godmar **or his heirs.** alod of Godmar.

It has boundaries: from the eastern part on the term of Guardiola and from the south on the term of la Guàrdia or on the term of Castell d'Odolino and from the west on the term of **Castell d'Òdena and** from the round on the term of Castellfollit, which came to me from my *aprisio*. Whatever is included within these same bounds thus I give and concede to the house of Saint Benedict under the lordship of Sant Peter the Apostle everything whatever I have there by whatever voice, complete in integrity, with their exits and entrances, and it is manifest. For I wish that for all days everything which I have written above may remain perpetually in the power and lordship of Sant Benet, let those indeed serving the house of Saint Benedict present indeed and future thus obtain of them just like the other

It has boundaries: from the eastern part on the term of Guardiola and from the south on the term of la Guàrdia or on the term of Castell d'Odolino and from the west on the term of **Castell d'Òdena and** from the round on the term of Castellfollit, which came to me from my *aprisio*. Whatever is included within these same bounds thus I give and concede to the house of Saint Benedict under the lordship of Sant Peter the Apostle everything whatever I have there by whatever voice, complete in integrity, with their exits and entrances, and it is manifest. For I wish that for all days everything which I have written above may remain perpetually in the power and lordship of Sant Benet, let those indeed serving the house of Saint Benedict present indeed and future thus obtain of them just like the other

alod of Godmar. **The aforesaid castle moreover has boundaries in the county of Manresa or in the Vic bishopric, and** it has boundaries: from the east on the term of **the castle of** Guardiola, from the south on the term of **the castle of** la Guàrdia or on the term of Castell d'Odolino, from the west on the term of Òdena, from the round on the term of Castellfollit; which came to me from my *aprisio*. **There are moreover within these same bounds houses, courtyards, orchards, cultivated or uncultivated lands, woods, paddocks, mountains, hills, streams of water led and channelled, roads leading out and returning, meadows or pastures, woods, vines, fruiting or non-fruiting trees, everything in all things, with exits and entrances. I hand over votively and potentially to the house of Saint Benedict, under the protection and donation [sic] of the Blessed Apostle Peter or the Pope**

alods and possessions
of Sant Benet, let
them have the power
of using, harvesting,
governing or of doing
whatever they should
wish according to rule
for all time so that the
house of Saint
Benedict be honoured
therefrom,

alods and possessions
of Sant Benet, let
them have the power
of using, harvesting,
governing or of doing
whatever they should
wish according to rule
for all time so that the
house of Saint
Benedict be honoured
therefrom,

**who shall be in
charge of the Roman
Church. And let no-
one have power or
license, be it
archbishop or bishop
or any of all persons
or of dignity or
power dare to
disturb the aforesaid
honour or to
distrain the
aforesaid monastery.
The which I in my
possession with my
own properties and
not without great
labour, God aiding,
built and handed
over, just as it has
been written, to the
Lord God and
Blessed Peter of
Rome, let the monks
who are serving at
the house of Saint
Benedict now and
are in the future
indeed obtain all
these things thus
potentially and free
so that they do no
service to any man
thence unless power
should have been
conceded to him by
the lord pope, but
using and
harvesting,
governing let them
do whatever they
wish according to
rule, and so that the
house of Saint
Benedict be
honoured thence
according to the
possession of the
place, in such a way
however that they do
not cease to pray for**

in such a way
however that they do
not cease to pray for

in such a way
however that they do
not cease to pray for

my soul so that I may deserve to profit from a reward from our Lord Jesus Christ, amen. And for every single year let those same servants at the house of Saint Benedict undertake to give to the house of Saint Peter which is sited in the city of Rome thirty *solidi*. For if I that same donor or any other man who should have attempted to move against this donation or bestowal for reason of mercy or should have wished to abstract the already-said alods from the house of Saint Benedict, let the sins of my soul

be enjoined upon his and let him be made external to the limits of the holy **Catholic** Church and the **kiss** of all Christians, **of which [sins]** I hope to be purged **for this thing** and additionally let him compound **in chains** all these things **which are** written above fourfold for the church of Sant Benet's perpetual possession, whatever at that same time shall have been added thereto or can be found to be worth more, and as before

my soul so that I may deserve to profit from a reward from our Lord Jesus Christ, amen. And for every single year let those same servants at the house of Saint Benedict undertake to give to the house of Saint Peter which is sited in the city of Rome thirty *solidi*. For if I that same donor or any other man who should have attempted to move against this donation or bestowal for reason of mercy or should have wished to abstract the already-said alods from the house of Saint Benedict, let the sins of my soul

be enjoined upon his and let him be made external to the limits of the holy **Catholic** Church and the **kiss** of all Christians, **of which [sins]** I hope to be purged **for this thing** and additionally let him compound **in chains** all these things **which are** written above fourfold for the church of Sant Benet's perpetual possession, whatever at that same time shall have been added thereto or can be found to be worth more, and as before

my soul, so that I may deserve to receive a reward **and remedy** from our Lord Jesus Christ, amen. And for every single year let **the inhabitants of the aforementioned monastery** give to **San Pietro di Roma 30**

solidi. For if I **the** donor or any other man **or woman should have come** against this **charter of** bestowal or should have wished to **carry off or lessen** the already-said alods from the house of Saint Benedict let **all** the sins of my soul **adhere and**

be enjoined upon his and let him be made external to the limits of the holy Church **of God and from the company** of all Christians, **and above this** I hope to be purged and additionally let him compound all these things written above fourfold for the church of Sant Benet's perpetual possession,

and as before

let this donation
remain firm and
for all time.

This same donation
done the 4th Kalends
of October, the 13th
year of the reign of
King Lothar, son of
King Louis.

Sal·la ##, who
have made this
donation and asked
to confirm.
Isarn ##. *Unifred* ##.
Abbo the deacon ##.
Sig†ned Sal·la.
Sig†ned Lleoopard.
Sig†ned Baldofred.
Sig†ned Guinado ##.
Gonter ##. Sig†ned
Nitrà. Sig†ned
Emeno. *Agila the*
priest ##. *Crispio the*
priest ##. *Guimarà*
##.
Mascaró the priest ##.
Baldemar the priest
##. **S† Borrell by**
grace of God Count,
who was witting in
this same donation
on account of God
and for the remedy
of my soul. Guigo
##.
Sunyer the priest,
who **have written**
this donation **and** ##
below the day and
year as above.

let this donation
remain firm and
for all time.

This same donation
done the 4th Kalends
of October, the 13th
year of the reign of
King Lothar, son of
King Louis.

Sal·la ##, who
have made this
donation and asked
witnesses to confirm.
Isarn ##. *Unifred* ##.
Abbo the deacon ##.
Sig†ned Lleoopard.
Sig†ned Baldofred.
Sig†ned Guinado ##.
Sig†ned
Nitrà. Sig†ned
Emeno. *Agila the*
priest ##. *Crispio the*
priest ##. *Guimarà*
the priest ##.
Mascaró the priest
##. *Baldemar the*
priest ##. **Gonter the**
priest †.

Sunyer the priest,
who **have written**
this donation **and** ##
below the day and
year as above.

let this donation
remain firm **and**
stable for all time.

The which was
done the 4th Kalends
of October, the 13th
year of the reign of
King Lothar, son of
King Louis.

Sig†ned Borrell, by
grace of God Count
and Marquis, who
was witting in this
same donation on
account of God and
the remedy of my
soul. *Sal·la* ##, who
have made this
donation and asked
to confirm.
Isarn ##. *Unifred* ##.
Abbo the deacon † ##
Sig†ned Sal·la.
Sig†ned Lleoopard.
Sig†ned Baldofred.
Sig†ned Guinard.
Sig†ned Gonter ##.
Crispio the priest ##.
Sig†ned Nitrà. *Agila*
the priest ##.
Guimarà
##.
Mascaró the priest ##.
Viscount Udalard †.
Baldemar the priest.
Guido ##.

Sunyer the priest,
who **wrote** this
donation
below the day and
year as above.

The relationship between these documents is thus complex. Allegedly all from the same day, it seems clear that the first two at least relate to different stages in the development of the patrimony of Sant Benet. The autograph signatures of Manresa 69 suggest that it has some claim to contemporaneity. Between its redaction and the drawing up of Cat. Car. IV 995B the estate at l'Angle had however been redefined, perhaps by the acquisition of the estates of Dató and Bonència at their deaths. This, the evident lack of controversy over the bounds of the property at Secabecs which meant that they could be omitted, and that Godmar's heirs at Maians were no longer a factor suggest that some time had elapsed. Godmar of Maians is seen in other documents, and makes his last appearance in 979, witnessing a document in which the castle of Maians was **again** given to Sant Benet de Bages, by a couple who had held it from none other than Unifred, the witness of the above documents who was Sal·la's eldest son.⁴⁶ It had already apparently been resumed for fiscal purposes by 972 when the monastery church was consecrated, at which point the scribe enthusiastically expressed this as a reservation by Count Borrell which permitted the monastery to fight only with prayers and have nothing to do with matters military, in the manner of Saint Martin.⁴⁷

If my interpretation of the rephrasing of what is clearly a document made up from Manresa 69 are correct, then, we should expect Cat. Car. IV 995B to date from around or after this time, but it seeks to backdate the changed circumstances to the date of the original donation, and also seems to update the

⁴⁶ Godmar appears, albeit most often as one excepted from the grant of Maians to Sant Benet as above, in Cat. Car. IV 874, 995B, 996 & 1238 & Manresa 69 & 92. The witness appearance is Cat. Car. IV 1238. For Unifred, see pp. 234-236.

witness list in the light of later beliefs about the persons concerned. No such change of situation is however visible in Cat. Car. IV 996, which is phrased so differently to the other two documents that it seems unnecessary to consider it textually related; the only similarities are formulaic ones and we can easily accommodate the idea that the scribe Sunyer had these stock phrases in a formulary or similar. The document conflicts with Manresa 69 only in as much as it does not include the other grants Sal·la seems to have made on the same day. Its introduction of a short foundation narrative might cause suspicion, but this could certainly be contemporary; there is little doubt that Sal·la was indeed the founder of Sant Benet.⁴⁸ More suspicious is the appearance as witness, here only, of Viscount Udaldard of Barcelona, as his predecessor Guitard was still alive in 978.⁴⁹ The slight disarrangement of the witness list compared to Manresa 69, with which it is otherwise congruent, however suggests to me that the transcript was made from an original whose signatures had been made in whatever space seemed best by the witnesses, and the order in which they are recorded for us is thus the selection of the copyist. The fact that the same witnesses are not precisely matched should indeed probably encourage us to believe that Manresa 69 and Cat. Car. IV 996 share their date legitimately, and that Viscount Udaldard was therefore later invited to confirm the original grant and added his name in whatever space was most available, whence it was later transcribed as we have it. It is tempting to link this with the apparent

⁴⁷ Manresa 92.

⁴⁸ His family are found narrating this at length *ibid.*, from 972, and though as I have shown elsewhere such legends could be quickly created (Jarrett, “Power over Past and Future”) I see no reason to believe that this one was not essentially true.

⁴⁹ Last seen in Condal 183, as buyer.

reworking of Manresa 69, perhaps after 979, to reflect changes in the situation of the grant, as Udaldard may have succeeded at about this time.

The situation thus appears to be that of these three grants which overlap with each other, one (Cat. Car. IV 995B) is probably a later updating of an original, but the other two are contemporary. Why then were two documents which overlapped each other's content required? Cat. Car. IV 996 makes slightly more of Count Borrell's acquiescence to this grant to the Church, to a church technically exempt from his jurisdiction due to its Roman subjection, of a part of his defence network.⁵⁰ As Sal·la's *aprisio*, the land was probably technically Sal·la's only by Borrell's approval, though it is questionable how much force Borrell could bring to bear on the mighty Sal·la.⁵¹ This is probably the key here: I think we should see Cat. Car. IV 996 as the count's approval of that part of the main grant which specifically involved his rights, though as it was ceremonially part of the larger grant it was recorded again, along with his consent, in that document. This consent was interestingly later found irrelevant, which suggests that the castle had gone through another set of hands before Cat. Car. IV 995B was redacted and thus again suggests a date after Godmar's last appearance. Since however it is not the Maians property but the l'Angle one that that document updates, it seems unlikely that it was the abstraction of Maians that concerned the redactor, and the 972 exception of the castle from the monastery's property also suggests that this was an accepted fact within a short time of the endowment. It also again

⁵⁰ Some such network is demonstrable: see A. Benet i Clarà, "Castells, guàrdies i torres de defensa" in Udina, *Symposium Internacional*, I pp. 393-407.

⁵¹ Pp. 232-233 below.

suggests contemporaneity for this document, as when the castle was regranted to Sant Benet no mention was made of either Sal la's *aprisio* or Borrell's consent to its alienation;⁵² the relevance of these facts was quick to pass.

In summary, here we see that one occasion and one grant could result in two documents responding to different wishes on the part of the participants, wishes which were moreover very much a factor of the moment. The picture is thus of a situation where, at a grant large enough to concern several interests, multiple versions of the act's record might be made by scribes for each party according to their own priorities in the transaction. This may explain some oddities in other documents. We should then be thinking in terms not of an original and 'contemporary copies',⁵³ but of multiple possible originals, just as we would expect variant records of a historical event in any other narrative source.

We thus approach a conceptual situation in which a document could, if all our cautions be applied together, be technically authentic according to the *discrimen veri ac falsi*, but misreport by omission or bias several of the facts, imply a gathering of persons which never in fact took place, or an association of interests which may have been combined for the first time on parchment, and be signed by people who did not actually see the events they were called upon to have witnessed. This would reduce the charter to a private record of desired endorsements of a transfer potentially never to happen. It is of course unlikely

⁵² Cat. Car. IV 1238.

⁵³ This model of course long ago questioned for England by Pierre Chaplais, in "Some Early Anglo-Saxon Diplomas on Single Sheets: originals or copies?" in *Journal of the Society of Archivists* Vol. 3 (London 1968), pp. 315-336, repr. in F. Ranger (ed.), *Prisca Munimenta: studies presented to Dr. A. E. J. Hollander* (London 1973), pp. 63-87, at pp. 315-318 of the original.

that this is actually the state of the bulk of our documentation: it is far simpler to suppose that most of our documents do record, more or less as it happened, a gathering of persons at which a transaction of some kind was publicly carried out and written up soon afterwards. If this were not by and large true the point of recording events as such would be one entirely of legal formality, and in that case we should expect to see something far more like the formal legal practice of the Visigothic Code in our documents.⁵⁴ The *Forum Iudicum* was still the legal text of resort in Catalonia,⁵⁵ it contains several descriptions of how such documents should be used,⁵⁶ and formulae based on this practice survive,⁵⁷ but both ceremonies of transfer and formulae are conspicuously absent from our material. The form of events that our documents tended to adopt probably therefore owes more to actual practice; but this need not be the case with any individual document, and in some cases it certainly is not.

The process of redaction

We do in fact have a roughly contemporary account of the process of charter redaction, from 898.⁵⁸ It arose out of a hearing in which the actor, one Boso, came to a court to report the loss of a charter which had been made some years before and which he wished to have judicially replaced. As well as being

⁵⁴ See R. Collins, “*Sicut lex Gothorum continet: law and charters in 9th- and 10th-century León and Catalonia*” in *English Historical Review* Vol. 100 (London 1985), pp. 489-512, repr. in *idem*, *Law, Culture and Regionalism*, V.

⁵⁵ On the survival of the *Forum* see, summarising much earlier work, A. Iglesia Ferreirós, “El derecho en la Cataluña altomedieval” in Udina, *Symposium Internacional*, II pp. 27-34. On actual use of the Code, see Bowman, *Shifting Landmarks*, pp. 33-53, though cf. Conclusion, p. 257 & n. 10 below.

⁵⁶ Book II Title V of the Visigothic Law deals at length with what sort of documents are acceptable in law and how they should be used, and Book VII Titles IV-V are concerned with documentary forgery: see S. P. Scott, *The Visigothic Code* (Boston 1910; 1922), on-line at <http://libro.uca.edu/vcode/visigoths.htm>, last modified 16th August 2001 as of 15th July 2005.

⁵⁷ The *Formulae Visigothicae*, on which see pp. 62-63 below.

⁵⁸ Vic 28; Vic 27 is another record of simpler form from the same occasion.

a fascinating account of documentary process, therefore, it also records, in the testimony of the witnesses whom Boso brought, the procedure by which the original charter had been made. They swore (I translate as closely to the authentic, but confusing, syntax as possible) that:

“we the above written witnesses know... and saw with our eyes, and heard with our ears, and also were present at that hour while there were persons by the name of Domèníc, who is dead, and his wife Guisilda, and Ermoarí and his wife Farelda, in the county of Osona, in the term of Taradell, in Vil·lar de Gaudila. And thus the late Domèníc made a charter of sale to a man by the name of Boso, of all his heredity which he had in the county of Osona within the limits of the castle of Taradell or in Vil·lar de Gaudila, and Ermoarí with his wife Farelda sold all their lands or house, all their heredity, to that same Boso in Vil·lar de Gaudila. And we witnesses ourselves saw the documents, confirmed and impressed with the sign of the man named Domèníc and his wife.... And it was there inserted that if we the seller or [any] of our heirs, or any man who should come against these same scriptures to disrupt them, he should have compounded the selfsame heredity which is described above twofold, whatever should have at that time been increased. And it was reported in the selfsame scripture of Domèníc of the day: the 7th Kalends of March, 7th year of the reign of King Eudes. And there were there *firmatores* Elderic, Elnies, Gaudila, Argemir, making a mark, and therein appeared the notary Algerand. And there was reported in the selfsame other charter of Ermoarí of the day: the 8th Kalends of September, 6th year of the reign of King Eudes. And we the witnesses were *firmatores* making marks in the selfsame little charter of Ermoarí, and therein appeared the notary John the priest. We the witnesses saw the selfsame scriptures confirmed and corroborated and the mark of Domèníc and his wife impressed, and of Ermoarí and his wife the sellers, and of the auditors and of the chancellor just as is inserted above. And we saw the selfsame scriptures handed over into the power of this same Boso and I the already-said Domèníc and his wife, and Ermoarí and his wife, I handed them over of their spontaneous will into the power of this same Boso. And we the witnesses saw and heard the selfsame scriptures read and reread one and another and a third

time in Vil·lar de Gaudila. And these selfsame lost scriptures did this same Boso have, and it was visible. And that which we know we do testify rightly and truly and we swear the above-said oath in the Lord.”

This text thus gives us a plausible account of the way a transaction ceremony might run. At a gathering of the relevant parties, the charter was produced and the transactors’ marks made on it, its content having been somehow made known to the auditors, whose emphasis, both in the name itself and in their ‘hearing with their ears’, appears to be oral rather than read. Then the documents were passed over to the new owner, and he subsequently took them and had them read out at the property concerned, multiple times. This all makes sense, perhaps shows us Udina’s cross-drawing and all in all presents a perfectly probable account of events. My only reservation is one against accepting that this was how it was always done.

There are several reasons to balk at such an acceptance. In the first place, we know of no models for such a ceremony. Despite its emphasis on acceptable documents, there is only sketchy mention in the *Forum Iudicum* of the replacement of charters,⁵⁹ and there is no *ordo* for such a ceremony preserved. Almost certainly there would have been a sense of what was proper to do; but in the absence of written models we cannot be at all sure that this sense was the same from year to year and place to place. Furthermore, despite the absence of a legal script to follow, there are hints that this document was redacted with an idea of some such ceremonial procedure in mind. Chief among these are the usages of the words “*notarius*” and “*cancellarius*”. The former is almost unparalleled in this area of Catalonia; the assembled

⁵⁹ What there is is in Scott, *Visigothic Code*, VII.5.2. Other Catalan examples of *reparatio scripturae* are

documents of Carolingian Osona and Manresa offer eleven usages in 1,883 documents dating from 880 to 1000.⁶⁰ However, of these eleven, two are the documents we refer to here,⁶¹ seven are papal documents emanating from Rome,⁶² one is a passing reference in a *sanctio* from a synod of Frankish bishops apparently at Narbonne,⁶³ that is, outside Catalonia, and the remaining one is in a document of 888 earliest preserved in a seventeenth-century copy whose contents are at least arguably manipulated.⁶⁴ This is not an overwhelming endorsement of the usage,⁶⁵ and *cancellarius* is actually unparalleled at least in these counties,⁶⁶ with the exception of one forged papal Bull.⁶⁷ Some ideal of practice was being harked to here, which means that the procedure described might be what the scribe, or indeed the witnesses, felt ought to have happened, whether or not it actually had. There is no *a priori* reason to disbelieve it: as Hubert Mordek put it, one must always allow for the possibility that the sources are right;⁶⁸ but we should probably avoid seeing this as the way in which such things were always done given how unparalleled, both in usage and in content, is its import.

Cuixà 56-58 & Manresa 283: see Bowman, *Shifting Landmarks*, pp. 151-161.

⁶⁰ R. Ginebra & R. Ordeig, “Índex alfabètic de noms” in R. Ordeig i Mata (ed.), *Catalunya Carolíngia IV: els comtats d’Osona i Manresa*, Memòries de la Secció Històrico-Arqueològica LIII, 3 vols (Barcelona 1999), Pt. 3, pp. 1355-1563 at p. 1484.

⁶¹ Vic 27 & 28, there Cat. Car. IV 33 & 34.

⁶² Cat. Car. IV 685 & Vic 405, 406, 408, 445 & 624 (as Cat. Car. IV 1086, 1087, 1088, 1247 & 1797).

⁶³ Vic 62 (Cat. Car. IV 136).

⁶⁴ Cat. Car. IV 10: see Ordeig, *Catalunya Carolíngia IV Pt 1*, p. 75.

⁶⁵ See also n. 13 above.

⁶⁶ Ginebra & Ordeig, “Índex”, p. 1396.

⁶⁷ Cat. Car. IV VII, which Ordeig dates to 948, but which other editors have placed at 971 or 1016.

⁶⁸ H. Mordek, “Karolingische Kapitularien” in *idem* (ed.), *Überlieferung und Geltung der Normativer Texte des frühen und hohen Mittelalters* (Sigmaringen 1986), pp. 25-50 at p. 30: „[M]an muss der Überlieferung immer die Chance geben, recht zu behalten”. I owe this quote to Dr Christina Pössel who uses it in her thesis, “Symbolic communication and the negotiation of power at Carolingian regnal assemblies, 814-840” (Ph. D. thesis, University of Cambridge 2004), and kindly let me see the relevant chapter in draft.

We may also wonder whether this account of reading and re-reading can be taken as general. It has been argued for English and some German charters that an oral publication is implied by the use of the vernacular for the boundary clauses.⁶⁹ In a Romance-speaking area we may perhaps accept that Latin documents were probably more or less comprehensible particularly in these basic aspects, and Romance symptoms do come out most strongly in place-names in these documents.⁷⁰ All the same, this is almost the only account of such a process we have. Hearings refer to documents being read and re-read by the judges,⁷¹ but this is not clearly an oral procedure,⁷² especially since the specification that it was done by the judges suggests that it need not have been a public process.

Against this single usage, then, we can set the case of an Urgell charter in which a woman by the name of Oliba settled her property on a favoured son,

⁶⁹ P. J. Geary, "Land, Language and Memory in Europe 700-1100" in Transactions of the Royal Historical Society 6th Series Vol. 9 (Cambridge 1999), pp. 169-184, esp. pp. 173-178.

⁷⁰ Most obvious perhaps is the near-universal replacement by the late-tenth century of the Latin *castrum* with Catalan *castell*. See more generally Alturo, "Cultura llatina", pp. 44-45 and refs there, and Kostó, Making Agreements, pp. 152-156 and refs on the problems of the language of charters and its popular intelligibility, albeit for a century or more later. More generally see J. Bastardas, "El català vers l'any mil" in I. Ollich i Castanyer (ed.), Actes del Congrés Internacional Gerbert d'Orlhac i el seu Temps: Catalunya i Europa a la Fi del 1r Mil·lenni, Vic-Ripoll, 10-13 de Novembre de 1999 (Vic 1999), pp. 495-513, with English abstract p. 514.

⁷¹ E. g. HGL V 158 or Sant Cugat 464. Perhaps significantly, examples of this usage earlier than 1000 are harder to find.

⁷² *Pace* Geary, who adduces an example of a Narbonne hearing where it is stated to be such: "Land, Language, and Memory", p. 175 n. 19. The citation he gives (Histoire Générale de Languedoc "V, 222") appears to be incorrect as printed. Another citation, in an article referred to in the same note, *idem*, "Oblivion between Orality and Textuality" in G. Althoff, J. Fried & P. J. Geary (edd.), Medieval concepts of the past. Ritual, memory, historiography (Cambridge 2002), pp. 111-122, at p. 118 n. 17, gives it as Histoire Générale de Languedoc "V:1 cols 338-339", but does so in enough detail that it is clear that he refers to HGL V 158 as above, which does indeed suggest the reading of a charter aloud, but only by the judge. Cuixà 58, of similar date to our Taradell document, refers to sworn witnesses reporting having "seen and heard read and reread" the documents to whose contents they testified; by contrast Cuixà 57 omits the verb "*audierunt*", which encourages the belief that even in 878 this usage was little more than a formula rather than a set ceremony. One could also refer to HGL V 12, where privileges of the cathedral of Nîmes were read out in public once land had been recovered by royal *fiat* from its usurpers; but this was clearly a special occasion and one far from our area. Cf. W. Brown, "When Documents are Destroyed or Lost: lay people and archives in the early middle ages" in Early Medieval Europe Vol. 11 (Oxford 2002), pp. 337-366, at pp. 363-364.

a deacon by the name of Ludiric, at the expense of her other sons on the understanding that he would continue to support her and build the estate up as he had been doing. Among the rights she included in this transfer were revenues “in sins as much from plunder as from the enemy”,⁷³ which appears to describe the potential revenues from military action on the border. It is unexplained why Oliba had access to such sources of income. If she was maintaining soldiers on her land, they are not mentioned. Wherever she came by such resources, though, it seems unlikely that in passing them on to her son the deacon she would have referred to them as ‘sins’. It looks as if the scribe, a priest called Guictimir, had his own views on the morality of the proceedings with which he coloured his language. If Boso’s ceremony were a typical one this would surely have been discovered. Did Guictimir really intend this barb, perhaps at a churchman he considered too warlike, to be made public? Are we looking at a medieval practical joke? Or was this Guictimir’s private attack, never to be discovered by its victims? At the least, we should reckon with the possibility that Boso’s triplicate reading ceremony was not one that everyone felt necessary, or even one which was necessarily usual.

Witnessing

There are two further issues which deserve consideration while we have the concept of charters under examination. One is the act of witnessing. This is hard to place in a schema of charter production, because it is not immediately certain whether we mean the witnessing of the ceremony or that of the document; as we have seen, the two need not occur together. If the

⁷³ Urgell 70: “*in peccoribus tam de predam quam de ostem...*”.

document was witnessed at the ceremony, as would be simplest, then obviously it must have been written by then. This is probably also the case with any document whose witnesses sign autograph, but where the witness signatures were added by the scribe we have no such indication. It also seems possible, as said above, that the document might be carried to at least some of its witnesses at different times to the main gathering.

A question, which is important but in this area at least very hard to answer, is that of who it was that witnessed documents. Studies of Frankish practice suggest that at some transactions children might be brought to see transactions in order to preserve the longest possible memory;⁷⁴ it does not however seem likely that these children's names were those recorded in the documents of these transactions, and certainly in areas of Visigothic practice we need to bear in mind that a minimum age for witnessing was specified by law,⁷⁵ though whether this was attended to is harder to say. Likewise, one might assume that beyond a certain age a person's utility as a witness decreased due to the shortness of their potential availability to testify, but perhaps venerability and local respect sometimes outweighed such morbid considerations.

Relatively few studies have closely focussed on this question except from normalistic sources, but those that have have produced differing results.⁷⁶ For Rosenwein, the massive body of charters collected at Cluny, once subjected

⁷⁴ E. M. C. van Houts, "Gender and Authority of Oral Witnesses in Europe (800-1300)" in Transactions of the Royal Historical Society 6th Series Vol. 9 (Cambridge 1999), pp. 201-219 at pp. 206-207.

⁷⁵ Scott, Visigothic Code, II.4.11. My attention was drawn to this by Dr Ross Balzaretti, for which I owe him thanks.

⁷⁶ In addition to those discussed here, see R. Balzaretti, "The Politics of Property in Ninth-Century Milan: familial motives and monastic strategies in the village of Inzago" in Mélanges de l'École de France: moyen âge Vol. 111 (Rome 1999), pp. 747-770 with résumé p. 980, at pp. 754-755.

to computerised analysis to detect regular groupings of charter participants, display a complex network of family interests revolving around certain properties and thereby involving themselves in the association of those property's owners with the monastery.⁷⁷ I have not been able to subject my much more diffuse sample to this sort of analysis but searching deliberately for this pattern has failed to reveal obvious occurrences except in a few cases, primarily of noble families. Obviously it is difficult to prove that such cases are not occurring, because it is hard to reliably identify loose family or property connections, especially in an area where, as here, three witnesses only was the usual number for a transaction. Certain persons do seem to have had regular collaborators in their purchase strategies.⁷⁸ Equally however, others do not, and while I am sure that group analysis would show more than I have been able to detect of this sort of participation in transactions, I am not confident that it would come close to explaining even most of the material.

In the area around Redon in Brittany Davies has detected an alternative pattern, of local notables who tended to be called upon to witness transactions.⁷⁹ This is more like the Catalan material but again is only a partial explanation of it. Certain persons appear in this sample who are identifiable

⁷⁷ B. Rosenwein, To Be The Neighbor of Saint Peter: the social meaning of Cluny's property, 909-1049 (Ithaca 1989), esp. pp. 65-68.

⁷⁸ The clearest case, because we have enough data to establish that they were not immediately related to their colleague, is the brothers Amalric and Bradilà in their operations with Adalbert and his family in Gurb and Sant Llorenç, discussed in Chapter 3 below, pp. 190-194. Other examples, where no family connection is stated at least, are Crispio and Duran, transactors in the area of Santa Eulàlia de Riuprimer and seen in Vic 98, 100, 106, 113, 129, 139 & 198, or Sunifred, Duran and Sendred who operated together with their respective wives over a wide area around the town of Manresa in Cat. Car. IV 1364, 1391 & 1417 & Manresa 128; compare Cat. Car. IV 692, in which a Sunifred in one of the same areas appears with his siblings, none of whom bear the later man's collaborators' names. Of course, with so common a name this is not conclusive.

⁷⁹ W. Davies, Small Worlds: the village community in early medieval Brittany (London 1988), pp. 109-126.

mainly by their persistent occurrence at transactions of land in a certain area, with various different people transacting to all of whom they were presumably not related.⁸⁰ Whether this standing was down to economic importance, connection to power structures, or merely personal character however is impossible to determine in most cases. And again, it is not by any means the whole answer.

Other persons are identifiable because they turn up repeatedly at transactions which were probably carried out at a place, irrespective of where the land in question was and even when the beneficiary was not the local institution. Sant Pere de Vic seems to have been a venue for transactions which did not necessarily touch the cathedral,⁸¹ and some hint of the same thing can be detected at Sant Joan de Ripoll as well.⁸² In the case of the donation of lands at Puiovultiaro discussed in Chapter 2,⁸³ it seems that not just the witnesses but also the transactors were gathered into one document more or less by happenstance. Presumably few transactions were quite so *ad hoc*, but how few is harder to determine.

Likewise from Sant Joan, I have argued below that Abbess Emma actually sent people to witness farflung transactions for her,⁸⁴ and she may not have been the only person to do this. Occasional appearances of Vic chapter clerics dealing with lands far out of their usual area might be explained by assuming that these transactions were done at the cathedral but may instead

⁸⁰ Chapters 2 & 3 mention many many examples.

⁸¹ Chapter 3 below, p. 171.

⁸² Chapter 2 below, p. 129.

⁸³ Condal 67; see pp. 91-93 below.

⁸⁴ Chapter 2 below, pp. 134-135 & n. 247.

suggest some similar visitation, for official or personal reasons, which saw the passing cleric being asked to witness simply because he was present and important.⁸⁵ At Vic the minor landowners we seem to see witnessing there might have been asked because they were present and trustworthy. But regularly-occurring local notables and family interest groups are also visible in this sample and still leave much unexplained. In summary, I do not think that in frontier Catalonia there was a single custom which determined who was selected as witnesses; I am not even sure that there were several competing ones.

Neither, it is worth saying, does there seem to have been a special significance in the order in which people witnessed. This is often difficult to assess, especially when working from printed editions which may not reflect the correct order of our originals' often jumbled signatures. All the same the variation already noted between the two authentic grants of Sal·la to Sant Benet de Bages, as well as the way that signatures were sometimes apparently placed wherever they would fit on a charter, means that data about social ranking like that extracted by Simon Keynes from the witness lists of Anglo-Saxon royal

⁸⁵ Cat. Car. IV 239 & 240 were almost certainly done at the cathedral of Sant Pere, because despite covering very different areas they were both dated the same day by the same scribe, one Salomó who was later to become Vic's *clavicularius* and appears in many other cathedral documents (Cat. Car. IV 804 & Vic 173, 179, 181, 195, 196, 211, 227, 242, 246, 258, 275, 302, 306, 307 & 354). By contrast, a chapter priest by the name of Sunifred, identifiable as such from Vic 119, 166, 172, 221 & 285 also seems to crop up in Cat. Car. IV 396 & 510 without any other regular Seu de Vic witnesses; the transactions might still have been at the cathedral, but we can wonder. Compare a priest Guifré, whose appearances, always as scribe, are often connected with Sant Benet de Bages but who also wrote transactions having nothing to do with either the monastery or the areas concerned in those Sant Benet documents that he wrote (Cat. Car. IV 1216, 1227, 1266, 1534, 1751 & 1765 & Manresa 128 & 281). I suspect that what this means is that he actually worked in the town of Manresa. It is worth noting that at St Gallen the scribes had definite and detectable areas of operation (Zeller, "Writing the Saint Gall charters"); with as dense a body of evidence here as there I might be able to show something similar, but I am not sure that practice in Catalonia was not more varied.

diplomas is not available to us.⁸⁶ Though scribes do sometimes seem to have ordered witnesses in seniority of rank, counts and viscounts, ecclesiastics (bishops then priests) and then laymen, this is far from consistent.⁸⁷ Catalan practice was not as tidy as the Anglo-Saxon, probably because it was more everyday.

Title

Another question is that of whether a charter could really constitute legal title to a piece of land. Much of what we have seen above has suggested that it did, in as much as possession of the charter was worth publicising, displaying, reading three times even, and that they were produced as evidence at law even if a powerful man's witnesses might challenge them. Supporting this contention, we find numerous documents where the act of transfer of land is called 'making a charter' of it, as if this were the act itself.⁸⁸

The numerous examples of charters being brought to courts show that they had force, or they would not have been used. Indeed, the bishopric of

⁸⁶ See his The Diplomas of King Æthelred the 'Unready' (978-1016): a study in their use as historical evidence, Cambridge Studies in Medieval Life and Thought 3rd Series 13 (Cambridge 1980). For an example of the 'authentic jumble' see Udina, Archivo Condal, Láminas IV or VIII, or worst of all, Sant Cugat 412, of which a facsimile may be found in Pontificum Romanorum Diplomata Papyracea quae Supersunt in Tabulariis Hispaniae Italiae Germaniae phototypice expressa iussu Pii PP. XI (Roma 1929), Tab. XII (b). This document is however as that suggests out of the ordinary, with a comital assembly's signatures being added (twice) to a pre-existent papal document; where the scribes could control the redaction more ordered results were usual, as the rest of Udina's plates or most of those in E. Junyent i Subira (ed.), El Diplomatarí de la Catedral de Vic, segles IX i X, ed. R. Ordeig i Mata (Vic 1980-1996), 5 fascs, fasc. 5, pp. 683-808, demonstrate. That this order was prescribed, however, is still not demonstrable.

⁸⁷ Order respected (more or less) in Condal 204 or Vic 604 (though here the clerics come last); ignored in Vic 537, 569 or 572, to pick only a few examples.

⁸⁸ E. g. Urgell 16 & Vic 257, 363 & 440 among others; cf. Urgell 111, where land already granted is reserved from a donation and referred to as the charter itself, "*Donamus nos... ipsud hec omnia quod superius resonat... exceptus ipsa carta quod fecimus ad filio nostro Chiricone*", or 215, which returns a piece of land, "*quod tu Donuz tradidisti nobis per scripturam vindicionis*"; Vic 419 is a pledge which enjoins the recipient to return "my document with my property".

Girona brought their royal privilege from Emperor Louis the Pious⁸⁹ as evidence in 842, 844, 879, 893 and lastly in 921⁹⁰ despite having amassed seven further royal privileges in that time.⁹¹ It seems that the royal document still had a force making it worth exhibiting even when the monarch who ordered it drafted was long dead. Possibly the antiquity of Louis's precept gave it a kind of splendour in proceedings, but renewals from later monarchs were also presumably worth having. There was perhaps also a kind of prestige in having a royal charter, even when the rights and resources concerned were out of control of the monarchs.⁹² Since the counts themselves were the officers responsible for defending the immunity from their levies granted by these documents, any other value the documents had must have been at their whim. Nonetheless, the Girona example, which is not the only one, shows us that these documents were used in court.⁹³ On the other hand, royal privileges may have been special cases. When local documents were at issue, as has been seen, they could be contested, and if one did not have a charter for one's land it did not by any means imply that one could not defend one's right to it. Possession was a matter of public testimony.

This is perhaps the closest we can get to the nature of 'the charter'. The case of Ferriol *fírmator*, mentioned above, suggests that in that case the actual

⁸⁹ Cat. Car. II Girona II.

⁹⁰ R. d'Abadal i de Vinyals (ed.), Catalunya Carolíngia Vol. II: els diplomes carolíngis a Catalunya, Memòries de la Secció Històrico-Arqueològica 2, Primera Parte (Barcelona 1926-1950), pp. 121-122.

⁹¹ Cat. Car. II Girona III-IX. On the unusually informative nature of this small group see R. Martí, "La integració a l'«alou feudal» de la Seu de Girona de les terres beneficiades pel «règim dels hispans». Els casos de Bàscara i Ullà, segles IX-XI" in Portella, Formació i Expansió del Feudalisme Català, pp. 49-63 with English summary p. 556.

⁹² R. d'Abadal i de Vinyals, Els Primers Comtes Catalans, Biografies Catalanes: sèrie històrica 1 (Barcelona 1958; 1980), p. 274.

⁹³ See for example Cat. Car. II Arles III or Cat. Car. II Particulars XXVII, and the verso annotations on

document itself was considered the object which balanced the price, as if ownership of the charter would be equivalent to ownership of the land. All the same this was perhaps only because one would be able to use the charter as Boso did his, to publicise one's right to the land, thus ensuring that he had witnesses who could swear to his ownership after he lost the charter. A charter about which no-one knew would fail at law, because the testimony of witnesses would refute it. In this respect the charter was less an actual title deed and more a means of making legal possession portable and reproducible; it permanised witness, but was not the only witness.

Furthermore, we have some indications that ceremonies need not necessarily have produced a document. Several hearings are recorded in which the victor is seen saying that once proceedings had been decided in his favour, he requested that a document of the hearing be made so that it would be eternalised in writing, as if this would not otherwise have been done.⁹⁴ The Visigothic Law might suggest that such resort to writing would be automatic, but it does not seem impossible that in a substantial assembly the public awareness of the outcome might be sufficient as to make such a procedure seem redundant. More even than this, in 1020 Count Guifré I of Cerdanya was to be found making a bequest to his family's foundation of Sant Martí de Canigou in the name of his wife, in which he referred to lands that he had himself given her, "not by charter, but merely by simple donation".⁹⁵ Presumably for a

Urgell 223 detailing its 1225 transcription so that it would remain usable.

⁹⁴ HGL II 178 & 201, both documents from Septimania but this too was still an area of Visigothic law; see R. Collins, "Visigothic Law and the Settlement of Disputes in early medieval Spain" in W. Davies & P. Fouracre (edd.), *The Settlement of Disputes in Early Medieval Europe* (Cambridge 1986), pp. 85-104, repr. in Collins, *Law, Culture and Regionalism*, VI.

⁹⁵ *MH* ap. CLXXXV: "... quod ego ea non per cartam dedi, sed tantummodo simpla donatione

comital husband and wife no more was required,⁹⁶ but in what other circumstances might trust have been sufficient or public awareness so broad as to negate the need for a written record? One answer can be found in the case of a priest by the name of Pere, whose will was enacted at the cathedral of Elna in 1030 on the basis of him having one day stood in his doorway and shouted it to all and sundry.⁹⁷ There was no written testament; this was enough, as it be heard by those who would later swear to it. The problem with such instances is of course that they would usually generate no record, and so we have only these coincidental references to judge their frequency by, an impossible task. What is possible is to keep them in mind when considering what evidence we may not have and how things may have been done outside the written norms.

Formularies

A third question is that of the models scribes used to produce their documents, that is, formularies.⁹⁸ Presumably such texts existed in Catalonia, but we have only two to judge what they might have been like and these are of questionable relevance. First and better-known is the text which was published as the *Formulae Visigothicae* in the *Monumenta Germaniae Historica*.⁹⁹ Surviving by the chanciest of preservations, as a twelfth-century transcript of an incomplete

tradidi...”.

⁹⁶ See for comparison C. Amado, “Circulation des biens à l’intérieur de la famille aristocratique de la Gothie au X^e siècle” in *Mélanges de l’École Française de Rome: moyen âge* Vol. 111 (Rome 1999), pp. 895-910 with résumé p. 982.

⁹⁷ HGL V 194. Oral testaments are provided for in the *Forum Iudicum*: see Scott, *Visigothic Code*, II.5.11.

⁹⁸ An interesting recent treatment of this genre of text, with references to much earlier work, in Brown, “When Documents are Destroyed”, esp. pp. 337-342.

⁹⁹ K. Zeumer (ed.), “*Formulae Visigothicae*” in *idem* (ed.), *Formulae Merovingici et Karolini Aevi, accedunt Ordines Iudiciorum Dei, Monumenta Germaniae Historica unde ab anno Christi quingentesimo usque ad annum millesimum et quingentesimum, Legum sectio V: formulae* (Hannover 1886), pp. 572-595. N. B. that this text is not subject to Brown’s cautions about Zeumer’s editorial assumptions, “When

text found in Oviedo,¹⁰⁰ this text, which appears to have been made up from Visigothic-period acts but which cannot be better located than this either in time or in space, should not be expected to tell us much of documentary practice in an area two hundred or more years distant from it in time, almost certainly far further east and likely also north than the compilation location of the formulary.¹⁰¹ The Franks had arrived in the meantime.¹⁰² Sure enough, of the forty-six texts used as models in the *Formulae Visigothicae* only one, that for the sacramental publication of a testament, which more than any other procedure recorded by our documents was defined by Visigothic law, bears even a passing resemblance to our material and even that not enough that we have any reason to believe this text or one like it was the source of our scribes' models.¹⁰³ It would be going too far to consider the *Formulae Visigothicae* as representative of Visigothic scribal culture as a whole; they are simply almost all we have of it, but on this small showing, we can find more Frankish ancestry in our area's acts than Gothic.¹⁰⁴

The other formulary that survives, of much greater local relevance, is a collection from the monastery of Santa Maria de Ripoll. It was edited in 1982 by

Documents are Destroyed”, pp. 342-344, as it is taken entire from an unique manuscript.

¹⁰⁰ Zeumer, “*Formulae Visigothicae*”, pp. 572-574.

¹⁰¹ On the date of the text and its Visigothic legal parallels see *ibid.*, pp. 574-575; on Visigothic charter usages see A. Canellas López, *Diplomàtica Hispano-Visigoda*, Publicaciones del Institución «Fernando el Católico» 730 (Zaragoza 1979), and for texts I. Velázquez Soriano (ed.), *Documentos de época visigoda escritos en pizarra: siglos VI-VIII*, *Monumenta palaeographica Medii Aevi: Series Hispanica* (Turnhout 2000), 2 vols. The writing material used for these documents (slate) is the most obvious indication that their era's *Urkundenlandschaft* looked very different to that under study.

¹⁰² On the influence of Frankish documentary forms see M. Zimmermann (ed.), “Un formulaire du X^{ème} siècle conservé à Ripoll” in *Faventia* Vol. 4 No. 2 (Barcelona 1982), pp. 25-86, at pp. 32-35.

¹⁰³ Zeumer, “*Formulae Visigothicae*”, No. 39. Cf. Zimmermann, “Un formulaire”, p. 41; on testamentary practice in the area, see A. Udina i Abelló, *La successió testada a la Catalunya altomedieval* (Barcelona 1984).

¹⁰⁴ See n. 119 below.

Michel Zimmermann.¹⁰⁵ This compilation has far more in it that we recognise, but its date makes it less likely as a source for our documents than we might hope. It seems to me that the text must as compilation date from after 977, for two of the models it includes are clearly the despecified siblings of two acts of Miró Bonfill, the first being the act of consecration of the monastery churches from that year, and the second being an act of election of the Abbot of Santa Maria de Serrateix, also from 977.¹⁰⁶ Zimmermann argues that as we only have one usage each it is impossible to say whether text or model came first, but this is giving up too soon. Firstly, as we have seen the circumstances of the consecration of Santa Maria were unusual: not only did the act involve multiple altars, which the formulary text abbreviates, but it was prefaced with an account of the foundation of the monastery by Count Guifré the Hairy, after his expulsion of the “Hagrites” from the area and his taking in of the land “*per prisiones*”. Guifré’s name is of course removed but the tell-tale phrase “the Hagrites having been expelled” remains, though interestingly the compilation scribe adds “or the other barbarians”.¹⁰⁷ This is a history that belonged to Santa Maria de Ripoll, and it seems inherently more likely to me that Miró wrote the act after Santa Maria’s consecration, rather than writing it as a formula for a generic monastery with a comital history founded on supposedly conquered land, and then adapting it to Santa Maria’s happily compatible needs later.¹⁰⁸

In the case of the election at Serrateix the matter is more confused. The text in the formulary appears to envisage the presence of two counts, a *dux*, and

¹⁰⁵ Zimmermann, “Un formulaire”.

¹⁰⁶ *Ibid.* pp. 67-69 & 69-70, the originals being printed as Cat. Car. IV 1242 and VL VIII ap. XXVI.

¹⁰⁷ On the potential of such claims, see Jarrett, “Power over Past and Future”, pp. 231-233.

a bishop. The only person in this period even occasionally seen with the title of *dux* in documents actually from the area is Count-Marquis Borrell II,¹⁰⁹ but this usage is troublesome and extremely rare. However, ecclesiastical occasions did, especially when written up by Miró, tend to inflate titles and general grandeur rather (one of Borrell's two other inarguable appearances as *dux* is the consecration of Sant Benet de Bages)¹¹⁰ and this could probably be accepted as a derivation from the act, but for the fact that Borrell is not named there. Instead, the act fills the slots with Miró's brother the Count-Marquis of Cerdanya and Besalú Oliba Cabreta, Miró himself (appearing as Bishop of Girona, though he was also Count of Besalú with his brother), Oliba again specifically as Miró's brother but without the ducal title, and Bishop Guisad II of Urgell. In a subsequent use of the same model from 993, unnoticed by Zimmermann, the slots were more easily filled by Oliba Cabreta's now-widow Ermengarda and her children Counts Bernat I Tallaferro of Besalú, Guifré of Cerdanya and Oliba of Ripoll, as well as the next generation Urgell prelate, Bishop Sal·la.¹¹¹ None of these, however, adopted the title of "*dux*", and he who occupied the position made ducal in the model, Count Oliba, was holder of the smallest and most ephemeral county, the youngest of the three.¹¹² This seems like a repeated

¹⁰⁸ Cf. Brown, "When Documents are Destroyed", p. 339.

¹⁰⁹ See M. Zimmermann, "Catalogne et '*Regnum Francorum*': les enseignements de la titulature comtale" in Udina, *Symposium Internacional*, II pp. 209-263, at pp. 234-242. Gauzfred Count of Empúries and Rosselló was however a "*dux*" to King Lothar III even though he is not accorded this title in Catalonia: see Cat. Car. II Particulars XLI & Sant Genís les Fonts III.

¹¹⁰ Manresa 92.

¹¹¹ Oliba 15: Abbot Froilà was present but unable to continue in post, he explained, "*quia deficit virtus mea et loquela mea*". For clarification of the relationships involved here the reader may wish to consult the family tree, below p. 78.

¹¹² On the short-lived county of Ripoll, see M. Pagès i Paretès, "El marc històric" in A. Pladevall (ed.), *Catalunya Romànica X: el Ripollès*, ed. J. Vigué (Barcelona 1987), pp. 17-25, 32-37 & 41-62 at pp. 42-43, and J. Camprubí i Sensada, "La indivisibilitat del bloc comtal Cerdano-Berguedà en època d'Oliba (Cabreta) i dels seus fills (finals del segle X inici de l'XI)" in Ollich, *Actes del Congrés Internacional*

attempt to make the act fit the model rather than the model being derived from the act, and yet it appears that a particular ceremony with anticipated participants was in mind when the model or its source text was drawn up.

This might all be thought to indicate a compilation date for the formulary between the two 977 acts, in which Miró used his own act of consecration of Santa Maria as a justly splendid example to begin the text with, then composed a model for an abbatial election which he shortly after had a chance to use, albeit with less illustrious participants than his muse had envisaged; one wonders if he might have had Santa Maria de Ripoll's next election in view instead. Zimmermann favoured an earlier date since one of the letters used as a model involves an address to plural counts, and he points out that Borrell was a sole ruler in Barcelona and Osona after 966, when his brother Marquis, also called Miró, died.¹¹³ Since the adjoining counties of Besalú, in which Santa Maria by then lay, and Cerdanya shared plural counts in various ways from 928 through till 1049, however, the window is wider than he supposes. I think nonetheless that it must be considered to open only in 977, and even this tells only the date of two of the source texts, not of the formulary into which they were compiled. On the other hand I think that the compilation date cannot be much later than 1008, in which year that same Oliba, erstwhile Count of Ripoll and since *c.* 1003 a monk at Santa Maria, became abbot there, as none of his letters appear to have been used and they were rather famous.¹¹⁴

Gerbert d'Orlhac, pp. 151-161.

¹¹³ Zimmermann, "Un formulaire", pp. 30-32.

¹¹⁴ On Count, then Abbot and also later Bishop Oliba, see R. d'Abadal i de Vinyals, L'Abat Oliba, Bisbe de Vic, i la seva Època, El Guió d'Or (Barcelona 1948; 1948; 1962); repr. as "L'abat Oliba i la seva època" in *idem*, Dels Visigots als Catalans, ed. J. Sobrequés i Callicó, Estudis i Documents XIII-XIV

Since, however, our earliest document in the twin counties of Osona and Manresa dates from 880,¹¹⁵ and elsewhere in Catalonia native documentary production goes back to 805,¹¹⁶ however, this does not answer for the models in use by most of our scribes. It may well **compile** many of them, and if so its selection was a wise one because many of these models became so popular as to be almost-standard in Catalonia at large from the mid-eleventh century to the end of the twelfth.¹¹⁷ This does not indicate that this formulary was some kind of official notarial standard, merely that it happened to compile already-popular models, as we can see from the occurrences which Zimmermann's incomplete index gives from before the likely compilation period.¹¹⁸

Even in this survey however variation is apparent. As Zimmermann observes, while Santa Maria and Sant Joan de Ripoll used formulae for sales which are precisely related to those in the Ripoll formulary, the cathedral of Sant Pere de Vic followed a slightly different model.¹¹⁹ From the earliest documents in the Vic archive, it is clear also that the scribes who are recorded there from the county of Berguedà, where a slightly different script was in use, had different models again,¹²⁰ and the limited material available from the

(Barcelona 1969; 1974), Vol. II pp. 141-277. A brief and less idealised view (in English) is offered by A. J. Kosto, "Oliba, Peacemaker" in Ollich, *Actes del Congrés Internacional Gerbert d'Orlhac*, pp. 135-149. I must thank Dr Kosto for kindly sending me an offprint of this paper. Oliba's surviving letters are printed in E. Junyent i Subirà (ed.), *Diplomatari i Escrits Literaris de l'Abat i Bisbe Oliba*, ed. A. M. Mundó, *Memòries de la Secció Històrico-Arqueològica XLIV* (Barcelona 1992).

¹¹⁵ VL VIII ap. I.

¹¹⁶ Tavèrnoles 1.

¹¹⁷ Zimmermann, "Un formulaire", pp. 35-51.

¹¹⁸ *Ibid.*, pp. 54-65.

¹¹⁹ *Ibid.*, p. 47. Intriguingly, the closest formulaic matches for Catalan documents generally appear not to be southern French, but those from eighth-century Weißenburg. I have not been able to investigate this link further, but I wonder if it tells us about the installation of charter scribes by the Carolingians in 801 Barcelona. If so, the Berguedà documents may show either an older and more native diplomatic form, or a less careful preservation of these archaic documentary *mores*.

¹²⁰ Vic 3, 5 & 7, with partial facsimiles in Junyent, *Diplomatari de la Catedral de Vic*, fasc. 5, Lámines 3,

county of Elna suggests that it, closer to the Pyrenees, showed correspondingly more Frankish leanings in its documents.¹²¹ Urgell on the other hand resembled Vic far more closely in its formulaic usage. The Ripoll houses between the two cathedrals were, curiously, much laxer about the schematic description of property boundaries. While the Vic and Urgell documents almost always describe a property with four boundaries, either east, south, west and around, or first, another, another and fourth, Sant Joan acts and the few Santa Maria documents which survive in full text often give three, two, or even five, and equally often give them out of compass order, while the number scheme is hardly used.¹²² This is all the more intriguing because the Ripoll formulary does not go into this level of detail, leaving boundary clauses to the whim of the scribe. Finding such a clear difference in house practice is therefore surprising. Was it that the Vic and Urgell model texts, whatever they were, were more strictly proscriptive, or should we take this to mean that actual charters not formulae were the models for these scribes?

Whatever texts documentary scribes had to work from, then, they may have only partially resembled this formulary. One might expect large monasteries and cathedrals to dominate their local areas, if not necessarily in terms of documentary production at least in terms of preservation, and the record therefore to reflect their own usages. One must also remember that

5 & 7.

¹²¹ Obvious even from the selective and often partial edition of F. Monsalvatje y Fossas, *El Obispado de Elna* Vol. I, *Noticias Históricas* Vol. XXI (Olot 1911), app. V-XXVI (these being the pre-1030 documents).

¹²² Sant Joan irregularities observable in Condal 12, 15, 16, 56, 64, 66, 97, 110, 121, 123 & 180, to name a few; of these, 121 has properties with both two and five bounds, and 16 another with five. This probably represents an access of realism on the part of the scribes attempting to delineate properties which were not simply-bounded boxes, but if so it is interesting that the two cathedrals felt the pressure to represent this

scribes would not necessarily have felt bound to stick word-for-word to a formula, be it derived from a monastic compilation, some kind of portable *vademecum* of secular model texts such as we may imagine (there being no evidence for them) or even just previous charters (though this only pushes the question backwards).¹²³ Origination was possible and permissible.¹²⁴ On the other hand, these were still functional texts which had to answer to their rôle. A scribe's preferred path between these urges might be based on where he was trained, and about such processes we know very little.¹²⁵ Practice is regular enough that it is clear that models were in use; what they were however is obscure to us, and though we might learn a great deal from attempting to establish exactly what the zones of particular formulae were, this would be a different and longer project. The reader will have to forgive therefore, that while I do not think we see here the survival of a Visigothic notariate, I am unable to say how local documentary practice was formalised or even how much.

Methodological Conclusions

It is time then to ask, before proceeding to focused analysis, what all this means for historians.¹²⁶ Mainly we need to get away from the fixed timeframe a charter suggests. We have numbers of documents which

less.

¹²³ For a possible direction for this push, see n. 119 above.

¹²⁴ The deacon Bonhom who wrote Sant Cugat 217 clearly fancied himself in Miró Bonfill's league; there are many other less ambitious pieces of elaboration to be found in this documentation. Bonhom was rather a special case; see Bowman, *Shifting Landmarks*, pp. 84-91 & 99.

¹²⁵ Mundó, "Statut du scripteur", pp. 24-25.

¹²⁶ There are of course numerous other questions that could be asked about the processes by which charters were drawn up, and perhaps most of all their subsequent preservation and use, which space does not permit us to explore here. On the last question at least I can refer the reader to Kosto, "Laymen,

encapsulate several different gatherings explicitly, but hopefully it is clear by now that this could be happening implicitly too, and if it is not, discussion of the Vall de Sant Joan hearing in Chapter 2 will make it so. There need not be an assembly or even an audience for the document as it survives; all that may already have occurred, or else may never have been going to. This is not to say that sometimes, perhaps even most often, a charter does reflect a record of a gathering where a transaction was carried out, written swiftly up and signed the same day; this is likely. It is simply that we cannot assume that this was the case, because sometimes it clearly was not, and the document we have may only partly reflect real events anyway. A charter may, fundamentally, be a private record constructed to one party's advantage as much as any other form of ostensibly 'public history' is.¹²⁷

We also need, though this is more obvious, to remember what we may not have. Several implications, possibly only formal, suggest that some transactions were only just or never recorded, as said above; the Visigothic law was not always followed. Likewise their preservation may be selective or even accidental; some documents, not being part of a trail like Adalbert's,¹²⁸ or not being owned by someone as careful as the family of Gombert, who in 1021 brought a charter to court which must have been at least 55 years and two generations old,¹²⁹ may never have reached archives; for those that did, the fire at Santa Maria de Ripoll, the loss of important collections in Civil War

Clerics and Documentary Practices", esp. pp. 60-63.

¹²⁷ Following the dichotomy noted, in rather different material, by Janet Nelson in her "Public 'Histories' and Private History in the Work of Nithard" in *Speculum* Vol. 65 (1985) pp. 251-293; repr. in *eadem*, *Politics and Ritual in Early Mediaeval Europe* (London 1986), pp. 195-237.

¹²⁸ See Chapter 2 below, pp. 190-194.

¹²⁹ Comtal 154 tells us of the use of this document by Gombert's grandchildren, but it does not itself

Barcelona and other such accidents and tragedies make our sample very variable and incomplete in strange ways.¹³⁰

Since we do not fully understand the procedures of archiving a document (especially if there were multiple copies sometimes, at which rate the loss rate must be higher than has been believed) we cannot assume either disinterest or care. The effects of this may be serious: a partial sample may badly confuse matters, and the absence of lost evidence can rarely if ever be determined, to say nothing of unrecorded transactions. These points will arise continually in what follows, but I have attempted to avoid repeating these cautions *ad nauseam*. This does not however mean that I have not worried about them in each case, and the same goes for all these issues; I have tried to consider at all points what the sources actually are and how we have them before setting out to use them.

survive.

¹³⁰ On the Ripoll fire, see J.-A. Adell i Gisbert, X. Barral i Altet & Pladevall, "Santa Maria de Ripoll" in Pladevall, *Catalunya Romànica X*, pp. 206-275 & 332-334, at p. 206; on the pre-985 comital archive see Udina, *Archivo Condal*, pp. 3-8; on the Barcelona losses of 1936, partially made good by typescript copies, see Ordeig, *Catalunya Carolíngia IV* Pt 1, pp. 7-8 for as much as is known.