

Carolingian *koinè* and documentary frontiers of the kingdom of Italy

by Gianmarco De Angelis

Even in relation to the history of documentation – given its nature as legal history, social history, history of institutions and ideas – we encounter the theme of frontiers, since the latter is inseparable from that of exchanges. From the beginning of the ninth century, when Europe was, economically and politically, Carolingian, cultural ties (and thus also the circulation of documentary models) were always assumed to have been active from the Frankish area to the newly-conquered regions. Lombard Italy, as one of the many *Urkundenlandschaften* of the Empire, does not appear to have been an exception. If the changes to written instruments (diplomas and *notitiae iudicati*) directly instrumental to political communication from the top, as well as dispute resolution according to the scheme of the *placitum*, were evident and nearly immediate, even the composite panorama of private charters began to be standardised and typified and the inclusion of ruling elites from across the Alps established in the peninsula a legal pluralism previously unknown. The aim of this contribution is to evaluate the rhythms of that change, their form and importance and, in particular, the areas to which they refer, and the possible maintenance – in terms of creation and/or consolidation –, in the face of the new Carolingian *koinè*, of “borders” internal to the kingdom. Leaving aside all the constraints placed on this research by sources with diverse structures among the various territorial sets, such a plurality of situations must be evaluated from the degree of penetration of the imported material, and of the response models of traditional documentary cultures, thus assigning the right value to the undoubted peculiarities, without giving up on the verification of crossovers between environments which are very clearly far from impermeable.

Middle Ages; 9th century; Italy; kingdom of Italy; Carolingians; legal history; charters and diplomas; notarial formularies; royal manumissions.

Abbreviations

Carte S. Maria Novara = *Le carte dell'archivio capitolare di S. Maria di Novara*, ed. F. Gabotto – A. Lizier, A. Leone – G.B. Morandi – O. Scarzello, I (729–1034), Novara 1913.

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- Carte ravennati = *Le carte ravennati dei secoli ottavo e nono*, ed. R. Benericetti, Faenza 2006.
CDL II = *Codice diplomatico Longobardo*, II, ed. L. Schiaparelli, Roma 1933 (Fonti per la Storia d'Italia, 63).
CDLang = *Codex Diplomaticus Langobardiae*, ed. G. Porro Lambertenghi, Torino 1873 (Historiae Patriae Monumenta, XIII).
ChLA XXI = *Chartae Latinae Antiquiores: Facsimile-Edition of the Latin Charters Prior to the Ninth Century*, ed. A. Bruckner – R. Marichal, XXI: Italy 2, ed. A. Petrucci – J.-O. Tjäder, Dietikon-Zürich 1983.
ChLA XXVII = *Chartae Latinae Antiquiores: facsimile-edition of the Latin charters prior to the ninth century*, ed. A. Bruckner – R. Marichal, XXVII: Italy 8, ed. J.-O. Tjäder, Dietikon-Zürich 1992.
ChLA XXIX = *Chartae Latinae Antiquiores: facsimile-edition of the Latin charters prior to the ninth century*, ed. A. Bruckner – R. Marichal, XXIX: Italy 10, ed. G. Cavallo – F. Magistrale – J.-O. Tjäder, Dietikon-Zürich 1993.
ChLA² LX = *Chartae Latinae Antiquiores: 2nd Series, Ninth Century*, ed. G. Cavallo – G. Nicolaj, LX: Italy 32, Verona 2, ed. F. Santoni, Dietikon-Zürich 2002.
ChLA² LXVIII = *Chartae Latinae Antiquiores: 2nd Series, Ninth Century*, ed. G. Cavallo – G. Nicolaj, LXVIII: Italy 40, Piacenza 5, ed. P. Degni, Dietikon-Zürich 2006.
ChLA² LXXI = *Chartae Latinae Antiquiores: 2nd Series, Ninth Century*, ed. G. Cavallo – G. Nicolaj, LXXI: Italy 43, Piacenza 8, ed. C. Mantegna, Dietikon-Zürich 2007.
ChLA², XCVIII = *Chartae Latinae Antiquiores: 2nd Series, Ninth Century*, ed. G. Cavallo – G. Nicolaj, XCVIII: Italy 70, Bergamo, ed. M. Modesti, Dietikon-Zürich 2017.
DD Ber I = *I diplomi di Berengario I*, ed. L. Schiaparelli, Roma 1903 (Fonti per la Storia d'Italia, 35).
MD = *Il Museo Diplomatico dell'Archivio di Stato di Milano*, ed. A.R. Natale, 2 vols, Milano s.d.
MGH, Capit. I = *Capitularia regum Francorum*, I, ed. A. Boretius, Hannover 1883.
Pap. Tjäder = *Die nichtliterarischen lateinischen Papyri Italiens aus der Zeit 445–700*, 3 vols, Lund-Stockholm, 1955.

1. «scriptum est quod partibus Etalie usus capeat»: *a Lombard juridical-documentary Province?*

In August 773, in Lucca, a certain David drafted in his own handwriting a detailed testament, with the aim of allocating various rights to his wife Ghiserada and his daughter Eutroda¹. When he came to spel out the clauses, he wanted first of all to clarify – no doubt to shield Eutroda from any claim by male children² – that he reserved for himself the right of usufruct to the full share of the properties in question. He did this through a reference to the usage then in force within the kingdom, thus displaying the clearest awareness of legal consistency that we have in the diplomatic documentation from that time:

uerumtamen dum ego adiuuere meruero, ego qui supra Dauit, omnia suprascripta res, quem uobis suprascripte filie mee hauendum dixi, gubernandi, inperandi et usufructuandi in mea sit potestate tantum; post uero decesso meo, reuertat in potestate tua suprascripte filia mea, sicut supra adnixum est. Et nonnulli liceat nolle quod semel

¹ CDL II, no. 287 (Lucca, August 773), pp. 416-420.

² Who are in fact prevented, with an unusual emphasis (as regards deeds of non-ecclesiastical orders) on the *sanctio spiritualis*, from objecting in any way to what has been stipulated: «et nullum de filii mei contra hanc meo iudicio aliquando agi presumat, et qui agi presumpserit, in Dei incurrat iudicium». On this point cf. Pohl-Resl, “*Quod me legibus contanget auere*”, p. 216.

uoluit; sed, sicut pater iudicat, in eo moderamen persistat eo quod scriptum est quod partibus Etalie usus capeat, non solum Etalie sed omnis prouincie. Et nullus de filii mei contra hoc meo iudicio aliquando agi presumat, et qui agi presumerit, in Dei incurrat iudicium³.

What is remarkable, in this passage, is not just the use of the formula of irrevocability of the donation («nonnulli liceat nolle quod semel uoluit»), which, already attested in the Ravenna practices, and evidencing the late antique provisions relating to manumission deeds, reappeared in the territory of Piacenza, in Varsi, in 736, then spreading in Lucca precisely in those years⁴: what proves to be of primary interest for the central theme of this intervention is exactly that hint at the prerogative of the *mutatio voluntatis*, which, in testamentary documents, was said to bring the legal uses of *Etalia* – i.e. *Langobardia* – in line with those of the other provinces of the kingdom⁵.

In terms of displaying a self-awareness of specificity, this is nothing comparable, surely, with what would subsequently be found in a privilege issued by Pope John X for St Gallen, where the Roman documentary *consuetudo* (not limited to the papal chancellery, as we know from other sources, since it extended to the workshops of *tabelliones* and *scriniarii* as well) appears to form a single whole with the uninterrupted use of the papyrus writing support⁶. It nevertheless seems to me a good starting point to reason about the existence (and the self-recognition) of *Urkundenlandschaften* within the Italian peninsula of Lombard tradition before and after the Carolingian conquest. It would have been of far greater value, it must be said, had we possessed evidence similar to that of Lucca chronologically postdating the 801 Italian capitulary that eventually enjoined on the subjects of the kingdom intending to draw up a donation document in anticipation of death to stop doing what had been customary until then («sicut actenus fieri solebat»)⁷ and to manage any usu-

³ CDL II, no. 287, p. 419.

⁴ Nicolaj, *Il documento privato italiano*, p. 166, with reference to the sources. For the origins of the formula in the context of manumission deeds, see Frezza, *L'influsso del diritto romano*, p. 63.

⁵ Cf., on the *Italy/Lombardy* equivalence: Delogu, *The Name of the Kingdom*, pp. 35-36.

⁶ «in hoc etiam petitionibus religiosi episcopi, venerabilibus legatis hoc subnixae supplicantibus, ut contra consuetudinem nostram, carta Romana cum scriptis notariis permutatis, conscribi haec in pergamento, quod secum detulerant, concessimus; et ut non dubitaretur de ipsis, quae scripta sint, annulo nostro subtus sigillari iussimus»: *Regesta pontificum Romanorum*, I, p. 311. In the same years as the papal privilege, a similar, proud identity claim is shown by the glossator of verse III, 55 of the *Gesta Berengarii* («Fortia iussa cito, scribe, sulcate papyris»), where, in correspondence with the last word, he explains that the poet «secundum Romanum morem dicit, qui in papiro scribere solent». See, on this point, Carbonetti Vendittelli, *I supporti scrittori della documentazione*, p. 43 (note 32). On these Roman peculiarities, the timeframe and the reasons of the switch from papyrus to parchment in Western Europe, we now have the insightful research of Internullo, *Du papyrus au parchemin*.

⁷ There is a clear, albeit tacit, reference to chapters 173 and 174 of the *Edict of Rothari*.

fruct reserve by means of *precarie*, specially drawn up documents requesting the temporary enjoyment of immovable assets⁸.

It is certainly a good starting point to try to verify whether that identification of territorially-based legal configurations referred to in the will of David from Lucca reflects to some degree of faithfulness the concrete perceptions and distinctions in the documentary space during the Carolingian century. A distinction between parts of the kingdom and its “frontiers” (*Langobardia*, indeed, as well as *Tuscia*, *Romania* and *fines Beneventani*) is clearly evidenced in terms of political-institutional spaces, to which specific military and governmental functions are extended (or aspired to be extended) in public and legislative documentation. It is a topic recently investigated by Paolo Delogu, and his contribution is certainly worth referring to, because of the abundance of illustrating examples and the subtle analysis of the available sources⁹. Are there, however, within this framework, and in a more or less direct connection with political timeframes and initiatives, recognisable spaces where we can place the documentary elaborations of notarial practices? Put differently, what type of evidence can be associated with the topical *acta* of charters, apart from their obvious (and necessary) function of geographical contextualisation¹⁰? Which and how many, within a panorama that in the course of the ninth century discloses undoubted tendencies towards normalisation and standardisation, are the documentary frontiers of the kingdom of Italy? A separation with the area of Roman tradition – which itself, however, is far from having unified features¹¹ – is taken for granted. Yet it might be interesting to verify the existence of more or less extensive spaces of “contam-

⁸ MGH, Capit. I, no. 98 (801): «De cartis donationum faciendis. Si quis Langobardus statum humane fragilitatis praecogitans pro salute animae suae de rebus suis cartam donationis cui libet facere voluerit, non, sicut actenus fieri solebat, ius sibi vendendi, commutandi et per aliam cartam easdem res alienandi reservet, set absolute faciat unusquisque de rebus suis quod velit, et noverit sibi a nostra autoritate penitus interdictum duas de eadem re facere donationes, set postquam unam de rebus suis traditionem fecerit, aliam de ipsis faciendi nullam habeat potestatem: ita tamen, ut usum fructuum per precariam et res traditas usque in tempus diffinitum possidendi sit concessa facultas».

⁹ Delogu, *The Name of the Kingdom*, in particular pp. 40-42.

¹⁰ It is not an issue that can be dealt here, but those topical indications that, in the documents of the time, do not limit themselves to the generic mention of the *actum* but add further contextualisation elements deserve a specific research; this is especially so in the case of transactions relating to assets lying far away from the place in which the charter had been drawn up – possibly located, additionally, beyond both geographical and political borders –; such data might provide precious information on how the spaces internal to the *regnum* were named and how they were perceived by the various participants in the documented event. We find an example in the substantial 819 donation to the church of Freising by Andrea, bishop of Vicenza of Alemanic origin. It concerned some properties of him situated in Bavaria, where the specification that the deed was drawn up «in Italia, in civitate Vincencia» is certainly justified by the recipient's identity: edition in *Die Traditionen des Hochstifts Freising*, I, no. 400a; on the charter, see first of all Castagnetti, *Transalpini e vassalli*, p. 40. The same remark, however, holds true for assets situated this side of the Alps («hic Italia finibus Sepriensis»), likewise held by an Aleman, Alpcar, that were donated to the monastery of S. Ambrose of Milan: CDLang, col. 146.

¹¹ «dal punto di vista della cultura e della prassi giuridica, l'idea di un'unitaria 'provincia diplomatica' si fa sfuggente, e forse anche per la storia della documentazione è opportuno ragionare

ination”, and measure the way, if any, in which the Carolingian conquest facilitated the circulation of certain drafting models across divergent contexts.

These are, quite evidently, vast issues, which I do not claim to cover exhaustively in the pages below, besides the fact that these issues have enjoyed a certain amount of historiographic attention for some years. I would rather consider this contribution as being essentially an opportunity to take stock of the state of studies in the field. Lastly, I will accompany the remarks emerging from the other contributors’ analyses with some elements of original reflection inspired by the perusal of documents, especially of those parts of the formulary which, though less defined and conspicuous, seem to me worth bringing up as a suggestion for delving further into the issue of borders and circulation of documentary models in the early Italian Middle Ages.

2. Documentary regions and border porosity

A few years ago, during her intervention at a conference titled *Le Alpi porta d’Europa*, Antonella Ghignoli conducted an extensive reinterpretation of the available studies on the «relazioni fra le forme documentarie in uso nei territori posti al di qua e al di là delle Alpi – franco, alamanno, bavaro, retico, longobardo – nel periodo precarolingio»¹². Her conclusive synthesis, reinforced by some original remarks on the existence of a common language (*koinè*) of Roman derivation (more or less direct, more or less contaminated as it might have been), focused on an indisputable movement of texts both along the side north of the Alps and across it. Such a movement was, however, taking place in two directions: from west to east in the first case, as an undeniable projection of Frankish hegemony, and from south to north for transalpine relations *sub specie scripturarum* between Lombard, Rhaetian and Alemannic territories. Here, thanks to the researches conducted by Alexandra Kanoldt, we were also granted the exceptional chance of assigning a name to the intermediary behind such imports – namely, Arbeo, a cleric employed for a long time at the court of Pavia during the age of King Ratchis, later a notary in the episcopal chancellery of Freising, and, lastly, a bishop himself¹³. The permeability of the Lombard kingdom to transalpine influences would only manifest itself after the fateful year 774. Naturally – as recalled by François Bougard in the conference titled *Ipotesi su una transizione*¹⁴ –, this did not happen throughout the territories of the *regnum* with the same degree of pervasiveness. The movement followed different chronologies, with sometimes quite marked differences, and above all affecting the documentary

non di Italia romanica *tout court*, ma di tante e diverse realtà locali»: Santoni, *Il documento privato di area romanica*, p. 73.

¹² Ghignoli, *Koinè, influenze*, quote on p. 83.

¹³ Kanoldt, *Studien zum Formular*; Ghignoli, *Koinè, influenze*, pp. 102-110.

¹⁴ Bougard, *Tempore barbarici?*, p. 332.

expressions in varying ways and forms depending on the juridical fields and the geographical regions involved. Thus, if the changes were full and almost immediate at its strongest area of penetration, among those writings (the diplomas) directly instrumental to political communication, the standardisation of the formulary for the *notitia* of *placitum* was a slower process (with three areas – the North of the peninsula, Tuscia and the Duchy of Spoleto – quite clearly identifiable at least until the 820s)¹⁵. After all, the “specialisation” of written deeds (and of the personnel) pertaining to the procedural sphere becomes particularly significant for our discourse, considering that it keeps pace with a general dynamics – discernible throughout the Carolingian world, not only in the Italic *regnum* – of abrupt divorce, at the beginning of the ninth century, between *praecepta* and *iudicata*¹⁶.

Although, the events that characterised the composite setting of the so-called “private” charters (a definitional label that fails to satisfy us, and yet remains irreplaceable)¹⁷ prove to be even less linear, it is still undoubtedly possible to discern some general trends. I will try to summarise them as follows on the basis on previous studies:

- a) a decrease in typological variety compared to the Lombard age (increasingly rare presence, followed by complete disappearance, for example, of the *cartae de accepto mundio*);
- b) an introduction of new deeds indebted to transalpine legal usages (the *precariae* and the *notitiae traditoriae* first and foremost)¹⁸;
- c) a set of timely changes to documentary structures and pre-existing uses through the inclusion of formulas and conceptual nuclei. The *libellus* attains maturity and gains a stable name as a solution devised to adhere to the reality of agricultural contracts¹⁹; while the *traditio chartae* becomes standardised and generalised in notarial subscriptions, linking the uncertain «eredità di una formula giustiniana» – to quote Giovanna Nicolaj’s words – to the «bagaglio mentale e culturale» of the conquering Franks, to their repertoire of «negozi e obbligazioni compiuti per simboli, ossia con atti rituali consistenti nella consegna di simboli»²⁰.

¹⁵ Bougard, *La justice*, pp. 119-137.

¹⁶ Bougard, *Diplômes et notices de plaid*, pp. 15-16; Kano, *La disparition des actes de jugement*.

¹⁷ Bartoli Langeli, *Notai*, p. 56. In the same way, the moment she deems that definition unsatisfactory as a tool for reproducing the heterogeneous scenario of “private” documentation, Ghignoli, *Koinè, influenze*, p. 84, rightly vindicates «la legittima approssimazione di un concetto storico, dall’evidenza semantica immediata [...] per il periodo in questione», serving to operate a distinction in respect of royal/imperial privileges and the writings of papal origin.

¹⁸ On the *precaria* charters, their introduction in Italian practices and their role in the management of land assets, see again the study by Feller, *Précaires et livelli*. As regards *notitiae*, with a focus on the important Piacenza case alongside broader remarks and a historiographical discussion, see Mantegna, *Tra diritto romano*.

¹⁹ Due to the wide availability of sources, Tuscany is undoubtedly the reality most extensively investigated in this regard: cf. Ghignoli, *Libellario nomine*; Nishimura, *When a lease acquired its own name*; Tomei, «*Censum et iustitia*».

²⁰ Nicolaj, *Il documento privato italiano*, p. 165.

In general, as was done by Cristina Mantegna, we could sum things up by saying that we witness «il progressivo dominio di caratteri che finiscono per tipizzare i diversi documenti, a seconda del negozio giuridico contenuto»²¹, without however entirely cancelling formulary differentiations with a local and/or regional basis. Some of these peculiarities do not seem to survive the eighth century (as is the case of the *prescriptio*, which, amply attested in the Ravenna practice from late antiquity, preceded the mechanism in many Lombard charters from Milan to Emilia and Tuscia, and whose latest example known to me comes from Bergamo, in a *cartola vinditionis* of the year 795)²². Others, albeit in restricted territories, manifest a slightly higher degree of tenacity (it is the case of the donations characterised by an epistolary style at the beginning of the text, vanished in Lucca early on, and preserved only in the Amiata charters until the second decade of the ninth century)²³. The most macroscopic and lasting of these peculiarities (and possibly the best known one, since the legal studies of Pier Silverio Leicht and Guido Astuti, recently refined from the Diplomatic perspective by Cristina Mantegna) concerns the possibility of isolating two standard formularies, as regards sales-related charters, respectively south of the Tuscan-Emilian Apennines (in the area documentarily dominated by the overflowing episcopal archive of Lucca and by the monasteries of Amiata and Farfa) and in the heart of the Po basin, between Bergamo, Cremona, Milan, Parma and Piacenza (and further up west all the way to the cities of Asti and Novara). In this area lay people, both individuals and groups, managed large sums of money and were actively engaged in alienations and acquisitions of landed property, generally of medium size. In their documents of sale, from the end of the 8th century onwards, the formulary places particular emphasis, from the beginning of the text, on the declaration of *accepto pretio*, which thus seems to give the transaction the force of an obligation that produced immediate and real effects. Conversely, in the Tuscan and Farfa area, the cornerstone of the mechanism was represented by the landed assets, and the sum agreed upon in order to complete the exchange is found diluted in the text, mingled with the many clauses aimed at providing the buyer with guarantees for their rights and at defining the terms of the future sale of assets²⁴.

²¹ Mantegna, *Il documento privato di area longobarda*, p. 58.

²² «Scripsi ego Ropertus diaconus rogatus ad Audoaldo et Audulfo, quem Fradello vocitatur, germanis filiis quondam Aboni de Cantobernas, ipso presentem adstantem mihi dictantem qui ad subter manus suas proprias signum fecit testibusque obtulit roborando quique fatetur feinito bone fedei contractum hanc sub dublis bone conditionis rem meliorata sub extimationem pretii vindedissit et vindederunt»: ChLA², XCVIII, no. 1 (795 V 10, Monte Orfano).

²³ Mantegna, *Il documento privato di area longobarda*, p. 59. Quite exceptional – and confined solely to the acts performed by individuals professing Salic or Alemannic law and no doubt hailing from areas in which, instead, the epistolary model had endured for a long time – is the reappearance of that writing style in Piacenza, in the last twenty years of the ninth century: Mantegna, *Tra diritto romano*, pp. 13-14.

²⁴ Cf., concerning all this, along with the works of the jurists above mentioned (particularly Astuti, *I contratti*, pp. 224-228), Mantegna, *Il documento privato di area longobarda*, pp. 62-

Both formularies were already present in ancient and late antique times and updated during the Frankish age by notaries operating in geographic areas quite clearly associated with specific social and economic contexts, the Po area being one of greater monetary circulation, while Tuscia and the Spoletino are more traditionally associated with land transactions. To me, therefore, a central feature for the identification “of documentary frontiers” internal to a kingdom that was undergoing a standardisation process, from the institutional and cultural viewpoint within the Carolingian *koinè*, is the weight exercised by the strong poles of documentary attraction, capable of producing a deep impact on the definition of the ownership structures of the territory, on the forms taken by exchanges and, thus, on the social structure of economic actors – even though this was naturally done in close connection with the notarial traditions called upon to lend recognition and stability to such configurations.

Leaving aside the unknown chance survival in the documentary tradition²⁵ and the archival selection by the very institutions responsible for storing documentation, which might no doubt result in the over- or under-representations of specific types of deeds, depending on the different economic strategies pursued, it is indisputable that a clear-cut distinction exists between the Po Valley area and central Italy. This distinction is reflected in a more pronounced predilection for the instruments of a dynamic economy (sales and exchanges), whether or not characterised by monetary circulation, in the Po valley, and in a strong vocation for the management of large-scale landed assets essentially built by successive aggregations (donations) and managed through temporary concessions (*livelli*) in central Italy. Once again, it is François Bougard who provided an excellent summary of the issue («les archives lombardes sont celles d’une économie en pleine activité, là où les fonds toscans reflètent plutôt la gestion de portefeuille ou la spiritualité donatrice»)²⁶. Bougard called for a recognition of all possible differences/peculiarities within such a bipartite division: an emblematic case, among the great monastic foundations of central Italy, is represented by the documentation transmitted by the *Liber instrumentorum* of S. Clemente in Casauria, «seul de son espèce à en avoir gardé systématiquement copie car il s’est construit son patrimoine à coup d’achats massifs, sans bénéficiaire comme d’autres d’un flux de donations spontanées»²⁷. However, differences in the documentary “histories” can also be observed within the same local area, as evidenced in

64 and 68-70. Certain formulary differences between the Po Valley area and the central part of Italy are not confined, of course, to sales charters, as they also involve other documentary types, which, between Lucchesia and Farfa, appear to be characterised by «forme brevi e semplificate, meno erudite e meno inclini a incorporare apporti esterni, e in cui prevalgono una sorta di uniformità formulare, quasi generalizzata, e una precisa concentrazione del testo intorno al dispositivo del documento»: Mantegna, *Il documento privato tra regnum Italiae e Oltralpe*, p. 115.

²⁵ Esch, *Überlieferungs-Chance und Überlieferungs-Zufall*.

²⁶ Bougard, *Actes privés*, p. 546.

²⁷ *Ibidem*, p. 543.

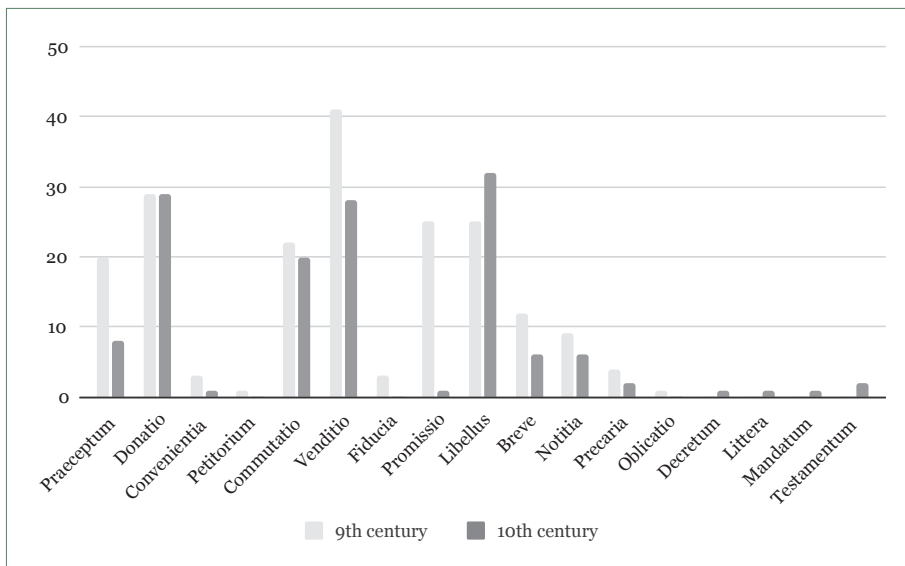
the medium-term by the case of the two main archives of Piacenza (Tables 1-2). Compared to the fundamental equilibrium in percentage terms, in the ninth century, between donations and sales charters in the archives of the Cathedral and the Church of S. Antonino, already at the end of that same century (with a decisive “jump” in the very first years of the following century) we witness a surge in temporary concessions, set within the frame of the *libellus*. This becomes an almost exclusive instrument for managing the landed assets of the Church of S. Antonino, whose situation henceforth showed itself to be far more similar to the Tuscan one (particularly that of Lucca) than to other realities of Po Valley Italy (Tab. 3).

Starting from the ninth century, as we well know, an element which complicates our scenario consists in the documentarily significant action of transalpine individuals and groups (Franks, Bavarians, Alemannic and Burgundians) that established in the peninsula a legal pluralism unknown during the previous period²⁸. Here, politics would seem to have played a definite role, given that it is only in the aftermath of a more massive introduction of ruling elites from the 820s onwards that the phenomenon came to acquire substantial weight. In practice, this saw the elements of a new formulary, certainly imported from north of the Alps, emerge. This formulary aimed, above all, at witnessing a transaction by means of a procedural transfer of an object endowed with an immediate symbolic value. Of these objects, however, only two – the *festuca* and the *andilanc* (or *wandilanc*) – are attested in the formularies from the North side of the Alps (specifically in the *Formulae Lindenbergenses*, drawn up at the end of the eighth century and widespread especially in the Bavarian area). Others (the knife, the clod of earth or grass, the glove), far more frequent in the documents of the peninsula authored by transalpine individuals, must ostensibly be attributed to autonomous elaborations by Italian *notarii*, with wide margins of inventiveness and often with a set of elements that Harry Bresslau had already interpreted as a search for a guarantee in the face of a largely novel picture and, therefore, as a conscious emphasis on drafting schemes as yet hardly familiar²⁹.

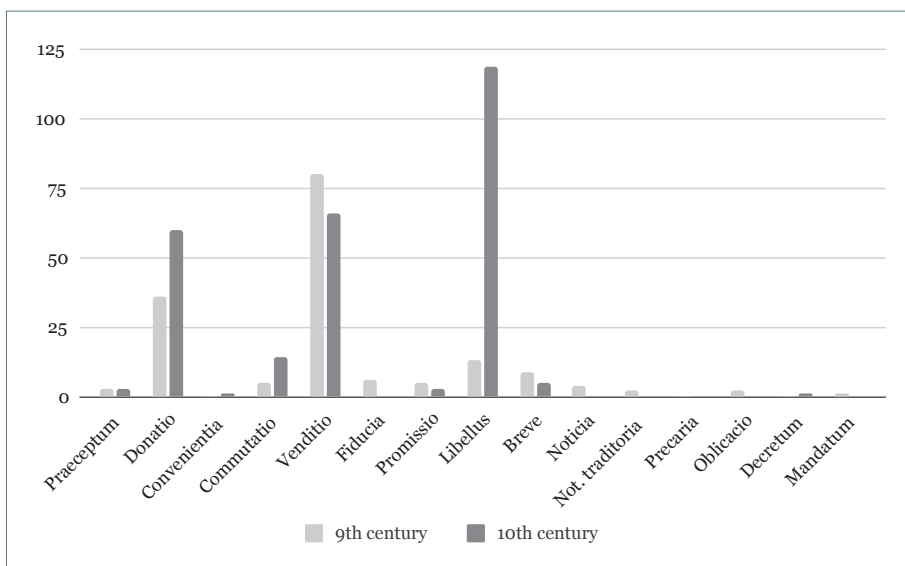
It must be said, however, that in the extension of this formulary to the *regnum*, we fail to discern a single direction that only politics could have provided. There are considerable regional differences (between the subalpine area investigated years ago by Renato Bordone, and the Farfa area, for in-

²⁸ At least for the eighth century, Gasparri, in *Identità etnica e identità politica*, pp. 161-164, emphatically insists on the fundamental value of Lombard law (capable of reverberating even on the archaic imprint of the Rotharian *corpus*) and, accordingly, on the non-existing ethnic-legal contra-position between Lombards and Romans. On the same line Pohl-Resl, *Legal practice*, according to whom «in the last century of Lombard rule both Lombard and Roman legal practices existed, but the boundary between them, like so many frontiers, had become *incertaine* and *toujours perméable*», p. 219.

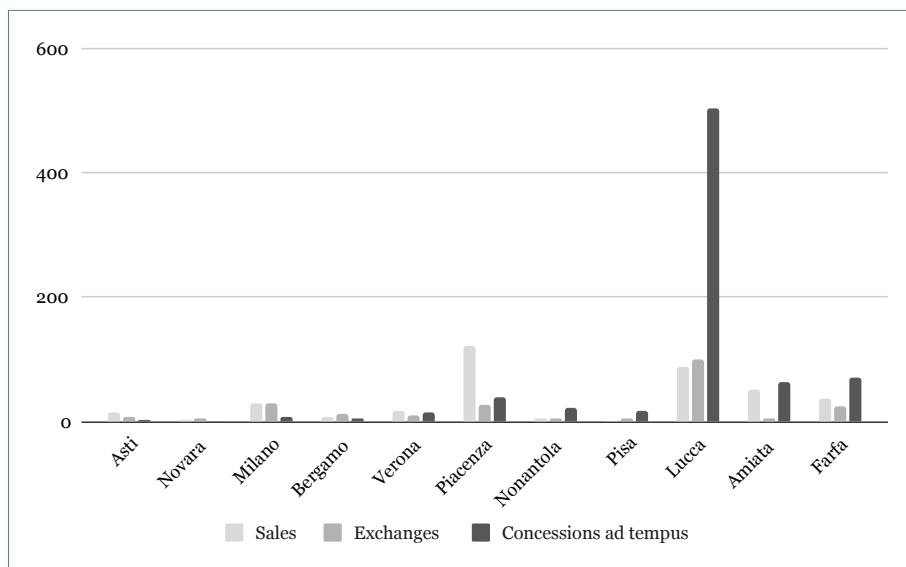
²⁹ Bresslau, *Manuale di diplomatica*, pp. 751-752. On all this, see the remarks in the very recent Bougard, *Cartularium Langobardicum*.



Tab. 1. Piacenza, Archive of the Cathedral.



Tab. 2. Piacenza, Archive of S. Antonino.



Tab. 3. The main documentary typologies in the archives of the *regnum* (774-900).

stance)³⁰. Even where the phenomenon is precocious and abundantly documented (in the Lombard area studied by Andrea Castagnetti and then especially in Piacenza), the recourse to typical ideas of the transalpine tradition does not impose a new documentary model – except for the *notitiae* – but is grafted onto the very precise partitions of the documentary mechanism, by then consolidated, of the Roman-Lombard *cartula*. One can refer, in particular, to some phrasing of the formal bestowals of possessory rights (*vestiture*), very close to Marculf’s formulary and to some documents of the practice in the Frankish area³¹, or to the guarantee clause by which, in acts of alienation performed by individuals subject to Salic or Alemannic law, the *multa quod est pena*, laid down in the event of objection by the author or his heirs, might sometimes find itself expressed in charters and diplomas *consociante fiscus* (in association or, perhaps, “consociation” with the fisc) as per the original meaning of penalty paid to the *pars publica*, amply attested in transalpine *leges* and subsequently in Carolingian capitularies³². Above all, however –

³⁰ Bordone, *Un’attiva minoranza etnica*.

³¹ De Angelis – La Rocca, *Spectating Communities?*, pp. 49-51.

³² It is no coincidence that, on this side of the Alps, that formula – already extensively witnessed in the Frankish area and in the St. Gallen charters – is encountered for the first time in Abbo’s well-known will: «et insuper inferat ad ipsum sanctum locum heredem meam sociantem fisco auri libras quinquaginta» (*Monumenta Novalicensia*, no. 2, p. 37). In the *regnum*, it seems that the first cases dates back to the 840s, in Alpcar’s donation to the monastery of Saint Ambrose of Milan (CDLang, no. 146, 842 VIII 26, Milan = MD, I/1, no. 71) and in the testament of Billong, bishop of Verona, likewise an Aleman (ChLA², LX, no. 26). In the Farfa charters, I find

which is what concerns us the most, given our viewpoint –, what is lacking is the possibility of grasping the precise shifts in the geographical evolution, the exact links between the regions of origin of certain novel writing schemes and the politically and socially hegemonic groups responsible for the circulation of such models. Attempting to carry out such work would not be made easy by the notorious lack of formulary collections assembled in Italy³³. Nevertheless, it could be carried out, at least with some approximation, through a closer comparison than has been done so far, of the documentary texts produced South and North the Alps. These texts are now available, with near-complete coverage, and in critically unimpeachable editions – at least as far as the originals and the contemporaneous copies are concerned – thanks to the series of *Chartae Latinae Antiquiores*. Nevertheless, such an undertaking, even if we leave aside the specificities of the history of the documentation («storia di cultura della prassi [...], ricca, peculiare e pregnante»³⁴) and all its possible deviations from the norm, is worth attempting. It would then be worth setting it next to the line of studies represented by the “New Legal History”, which for some years has been offering convincing reinterpretations of legal codes of post-Roman kingdoms and collections of Carolingian capitularies, profitably exploring their chronologies, production and tradition contexts, and potential areas of usage in the service of public officials (first of all in the arena of conflict resolution then as part of the complex scenario of the new legal pluralism)³⁵. This could give rise to a valuable integrated picture of acquisitions, considering the all-political clientele (and the mobility) of *libri legales* on the one hand, and, on the other, the substantial indifference on the part of Carolingian officials for the defining of concrete and technical aspects of documentary production.

It is in fact known that, if Frankish politics is in any way active in that area the circumstances in which it does so are mainly those associated with legal precedents³⁶; and more generally, as remarked by Francesca Santoni, when talking at the conference around *Die Privaturkunden der Karolingerzeit*, when politics intervenes in the field, it dictates «norme di sapore più ideologico che deontologico»³⁷. Certainly, that was also the case in one of the very few but most significant of interventions, the capitulary by which Emperor Lothar, from Corteolona, called to order the notaries operating *in finibus Tusciae*, accused of writing documents «absque mense et die mensis»³⁸: capitulary in which, however, the distant Theodosian example – mediated by

a first occurrence in 884, in a donation to the monastery by two spouses living under Salic law: «tunc inferamus, una cum dstringentibus sociis fisci, auri libram unam, argenti pondera duo coacti exsoluemus, et quod repetit uendicare non ualeat»: *Regesto di Farfa*, III, no. 332, p. 34.

³³ For those of the Frankish world, we have the excellent research by Rio, *Legal practice*.

³⁴ Nicolaj, *Sentieri di diplomatica*, p. 320.

³⁵ Emblematic, in this sense, is the work by Esders, *Deux libri legum*.

³⁶ Ansani, *Notarii e cancellarii*, pp. 145-146.

³⁷ Santoni, *Il documento privato di area romanica*, p. 74.

³⁸ *Liber legis Langobardorum Papiensis*, p. 555.

the Breviary of Alaric and shifted from *leges* to *cartule* –, no doubt present as an influence, was updated and immersed in an objective reality, that of Lucca in the first two decades of the ninth century, which must have appeared to the legislator as possessing some peculiar features³⁹.

If we reverse the perspective, and observe the phenomenon from the angle of those materially responsible for the documentary production, we reach a not very different conclusion. Carolingian “standardisation” would also appear to reduce the numerous titles used by the writers of charters in the Lombard age (*scriva*, *scrivane*, *scriptor*, *notarius*, etc.). More specifically, one can note the phenomenon customarily referred to as secularisation of the notarial profession⁴⁰, in the sense of its adaptation to certain (never fully clarified) capitulary provisions on the exclusion of clerics from the production of documents⁴¹. It was such a phenomenon which, precisely during the years of conclusive entrenchment of Frankish domination – essentially coinciding with the start of Lothar I’s reign –, experienced a marked widening. Nevertheless, even the new *notarii* of the *regnum* – at least those operating in “border” areas – could still manifest a steadfast attachment to “other” traditions, ancient and strongly characterised, as did the scribes in the employ of Nonantola, who reiterated the formulary of the *tabelliones* active in the Ravenna exarchate, and the *notarii sancte Ecclesie Motinensis*, who reserved such formularies for the emphyteusis petitions addressed to the bishop⁴². Undoubtedly conscious choices could be made, modulated on the specific representativeness of the documentary event and on the needs of a special clientele.

³⁹ Bougard, *L'empereur Lothaire*. Tuscan peculiarities in dating systems had emerged since the fateful 774, with an emphasis laid on the Frankish conquest of *Langobardia* (alternatively, on the capture of the capital Pavia) almost entirely alien to the Po Valley world (Gasparri, *Italia longobarda*, pp. 164-168), and would then resurface with similar territorial compactness (involving, that is, the northern and central part of the Marca di Tuscia, while excluding the Siena and Amiata area politically and culturally gravitating around the papal *Patrimonium*) at the beginning of the tenth century, when Adalbert II’s stubborn opposition to Berengar I led to a total absence of references to the king in the local documentation. Bougard, *Le royaume d’Italie*, p. 499, speaks in this regard of a «discipline collective» of Tuscan *notarii* and of the strong «conscience d’appartenir à une même zone de production documentaire».

⁴⁰ According to the way the issue had been raised already by Hagen Keller, the first to observe its development especially in the conspicuous Lucca documentation: cf. Keller, *Der Gerichtsort*, pp. 9-11, and Keller, *La marca di Tuscia*, p. 122ff; on the case of Lucca, see also Schwarzmaier’s monograph, *Lucca und das Reich*, in particular p. 266ff (with some ad hoc perspective adjustments indicated by Ghignoli, *Istituzioni ecclesiastiche e documentazione*, p. 630ff). With a supra-regional slant, Bougard, *La justice*, p. 66ff, and Meyer, *Felix et inclitus notarius*, p. 72ff, reverted to the topic.

⁴¹ However, on the well-known prescription of the 813 Italic Capitulary («Ut nullus presbyter cartas scribat nec conductor sui senioris existat»), see also Petrucci’s interpretation, «An clerici artem notariae possint exercere», in particular pp. 561-568, anything but aligned with the previous historiography. The interpretation of the provision, caught «in its entirety, as a provision concerning the relationship between the priest of a rural or private church and his master», subsequently seeks to circumscribe the scope of its destination and to avoid seeing it as an imperative prohibition addressed to all clergymen belonging to the various religious orders.

⁴² Santoni, *Il documento privato di area romanica*, pp. 74-75.

Francesca Santoni is absolutely right when she writes that «La prassi giuridica [...] non ha troppo riguardo per i confini tracciati dalla politica, ha sue proprie regole, e sue movenze, e tempi diversi da quelli della norma»⁴³. An exception to that is represented, of course, by dating formulas in notarial documents, so precious for their ability to let us understand the forms taken by the circulation of news, the reaction times to the changes of regimes or specific political affiliations of the territories, or the embarrassment felt by scribes when facing the confusion of difficult times. An eloquent case is that of a Ravenna charter dating from 8th January 877, which blatantly (and consciously) ignores the name of the reigning sovereign⁴⁴, when in Lombardy and in Piacenza, in the same period, documents were dated to the second year of Charles the Bald, officially acknowledged in February 876 in Pavia⁴⁵. And truly solomonic is the solution devised by that Bergamo notary who, in April 896, with the full awareness that he was operating at a delicate political-institutional juncture, instead of opting for a choice in favour of Arnulf of Carinthia, escaped the predicament by recovering as *post quem* deadline the date of death, by then quite distant, of the last universally recognised sovereign, Emperor Charles III («Facta hanc comutacio post obitum bone memorie domni Caroli imperatori condam Ludovici rege filius anno nono»)⁴⁶.

As for the rest, we saw it already, practice follows autonomous paths, far more closely interwoven with the traditions and needs of locally hegemonic powers than with the rhythms of top-level politics. Above all, practice appears to us capable of traversing spaces and times both at the level of legally irrelevant phrasing and with regard to weightier aspects of the documentary device. In the next section, we will have a closer look at this, through illustrating examples for each of these developments.

3. *Mobility of documentary formulas in time and space*

Only a few words will be said on the first example, relating to an expression that the notarial culture of the early Middle Ages, via unspecified and unspecifiable intermediaries, ostensibly drew from an extra-documentary repertoire adapted, in different times, places and contexts, to similar communicative functions. I am referring to an expression with a very ancient history, dating back to the turbulent start of the fifth century, during which, in the Carthage occupied by the Vandals, a bishop – perhaps *Quodvultdeus* – “pho-

⁴³ *Ibidem*, p. 73.

⁴⁴ «Anno Deo propitjo pontificatus domni Iohannis summi pontifitjs et universalis pape in apostolica sacratissima beati Petri apostoli Domini sede sexto, imperatore nesimus, die octava mensis ianuarii, indicione detima, Ravenne»: *Le carte di Ravenna*, I, no. 31. On the Ravenna context in the years following the death of Louis II, cf. West Harling, *Rome, Ravenna, and Venice*, pp. 83-86.

⁴⁵ CdLang, no. 269; ChLA² LXV, no. 22 (876 X 27, Piacenza).

⁴⁶ ChLA² XCVIII, no. 28 (896 IV, Bergamo).

tographed” his age in two sermons titled *De tempore barbarico*⁴⁷. Having surfaced in documentary practices in a 553 donation to the Church of Ravenna, towards the end of the Gothic War⁴⁸, and being revived in May 774 in the Piacenza Apennines traversed by Charlemagne’s conquering armies⁴⁹, that same expression, by then clearly an integral part of a shared formulary repertoire⁵⁰, is encountered again in identical terms in Lombard Apulia, among the charters kept at the monastery of San Benedetto of Conversano, in the year 992⁵¹:

Ego Petrus (...) declaro enim quia preteritis annis, quando ordinabi ipsi filii mei Castelmanno et Leo et dedi illorum uxoribus, tandem erat tempora pacis et causa mea salvam habebam, sic dedi tandem ad Castelmanno filio meo (...) solidos decem (...) et ad predicto Leo filio meo iterum dedi solidos decem (...). Modo vero perveni ad senectute et tempus varbarice et non habeo iam aliquit de causa mea nec pretium quod dari debeam ad istum Alexander qui est posteriore minumus filius meus (...)

However, the “barbaric” time here does not coincide with a military context: the drama is not collective, but rather fully immersed in an individual dimension. It describes the situation of a by then elderly man who compared a peaceful phase of his own life, during which he could see more than honourably to the maintenance of his children (each one gifted 10 gold coins), with the later phase during which he found himself in dire economic straits, unable to bequeath his youngest son anything other than a modest house with a small plot of land around it.

I should like to dwell a little longer on the second case, given that, to my knowledge, it has never attracted scholarly attention. I am referring to a guarantee formula that emerged suddenly in the 760s, with perfect synchronism and with a similar function, among the charters of the newly established monastery of San Salvatore of Brescia and the archiepiscopal Church of Ravenna. The only variation is the typology of the document: in eastern Lombardy, it consisted of a typical *cartola promissionis*, whereas, in the exarchate area, the little formula was called upon to reinforce the clause rendering the donation irrevocable (being, significantly, wedded to the phrase *quia legibus cautum est*, which appeared for the first time in a papyrus from the year 600, no doubt to sanction a reference to the late empire and Justinian legislation meant to protect donations to the Church)⁵²:

⁴⁷ Quodvultdeus Carthaginensis, *Sermo XI* and *Sermo XII de tempore barbarico*. The problems of its ascription to the Carthaginian cultural milieu on the eve of the Vandal invasion have been conclusively resolved by Van Slyke, *The Devil and His Poms*, in particular p. 59 thereof. See also Kalman, *Two Sermons De Tempore Barbarico*.

⁴⁸ ChLA XXIX, no. 880 (= Pap. Tjäder, I, no. 13).

⁴⁹ ChLA XXVII, no. 827 (= CDL II, no. 291).

⁵⁰ To the same context also refers the use of this expression in the ending clause of a papal privilege of 1012 issued for the monastery of San Vincenzo al Volturno: «tam pacis quam barbarici temporis firma stabilitate decernimus sub iurisdictione Sancte Ecclesie nostre permanendum» (*Chronicon Vulturnense*, III, p. 8).

⁵¹ *Le pergamene di Conversano*, I, no. 26 (XI 992).

⁵² ChLA XXI, no. 717 (= Pap. Tjäder, I, no. 20).

et si ego suprascriptus Godolus subdiaconus vel mei heredes in aliquo disturbance[m] ex ipso curriculo fecerimus aut quocumque tempore oportuerit ad recooperandum eum interdixerimus, in quo superius decernutum est, et contra hanc cartulam promissionis ire quandoque tentaverimus, per nos aut subpositam aliam vel qualemcumque personam principi aut iudici supplicandum, per quemvis modo manifestum fuerit, componamus ad partem monasterii tibi Anselperge abbatissę vel successoribus tuis auri solidos quinquaginta

non per me neque per aliquamcumque oppositam personam procuratorisque personas, non adeundum iudicium et non supplicandum principibus, neque per ullam interpellacionem ullo modo ullaque ratione contraire, quia legibus cautum est ut quod semel donatum vel concessum fuerit a maxime in venerabilibus locis nullo modo revocetur.

Apart from the different enunciation of the sentence, what is striking is the declination in the plural of the term *princeps* in the Ravenna formulary: a form recognised by Karl von Savigny as typical of Romanesque texts from the early Middle Ages – more specifically the *Lex Romana Curiensis* – which, through the Breviary of Alaric (*Breviarium Alaricianum*), reinterpreted the Theodosian Code (*Codex Theodosianus*) and adapted it to the changed context⁵³. It is, in any event, clear that we are facing an erudite echo with a Roman law flavour (*principi erit supplicandum*, we read in Ulpian, D. 49.5.5pr.-1 [4 app.] with regard to the rules governing appeal proceedings)⁵⁴, which is now reused to evoke the commitment to keep loyal to the action just performed, without pretending to approach any public authority to oppose the terms agreed upon.

The odd thing is that, in Lombardy, the use of such a formula died out throughout the Carolingian age: I know of only two “peripheral” occurrences, in Piacenza, in as many *cartole promissionis*, and moreover in a very simplified form⁵⁵. I also came across another case in post-Carolingian age, in Novara in 927, again in a *cartula promissionis*, followed by a further such occurrence in Imbersago, Brianza, in March 985⁵⁶, while it is traced to Zevio near Verona,

⁵³ Savigny, *Storia del diritto romano*, I, p. 276ff.

⁵⁴ Pergami, *L'appello*, p. 249.

⁵⁵ ChLA² LXVIII, no. 9 (IV 816, Ottavello); ChLA² LXXI, no. 3 (VIII 893, Pomaro), where it is combined with the clause of *restitutio in duplum* of any disputed goods: («si amodo nos qui supra (...) contra vos (...) agere aut causare presumpserimus, anteposito que superius intermissum est, ante principis vel iudicis et omni tempore exinde tacitis et contemptis non permanserimus, et causa probata fuerit, tunc duplas suprascriptas rebus unde agere aut causare presumpserimus vobis restituamus»). I would only point out that in both of these cases the authors are – in the first case by membership of the ecclesiastical *ordo*, in the second by express declaration – of Roman law, which, however, does not occur in the later Lombard examples from the tenth century and is frankly impossible to demonstrate for the late eighth century, in the light of what was said above.

⁵⁶ Carte S. Maria Novara, no. 43: «Si a modo aliquando tempore ego qui Imelbertus aut meis heredes contra te aut contra tuis heredes vel cui tu dederis agere aut causare presumpserimus aut ad agentibus consentierimus per nos aut per nostra summissam personam supplicandum principes aut iudices seu qualibet potestati»; CDLang, no. 826, coll. 1445-1446: «si aliquando tempore ego qui supra Wilielmus aut meos heredes aut nostra submissaque persona contra te qui supra Saïdoaldus abbas aut contra vos successora aut contra cui vos legibus dederitis, de istis

in an *extra-placitum pactum* sealing a *causacio* between private individuals, precisely in the short timespan at the end of the period, in January 883⁵⁷.

Ascribed to the ninth century (though actually a forgery from the twelfth century), the formula is also present in the Amiata charters (significantly, as additional proof of the cultural proximity of this area to the “Roman” world, in forms mirroring the original Ravenna phrasing)⁵⁸, and above all, with the same variation/extension to an *ecclesiastica interpellatio*, again in Ravenna, where it is always and exclusively used in donation charters written by official scribes of the city⁵⁹.

In Lombardy, it would seem to resurface only well into the eleventh century (a period in which, in any event, its use was going to extend elsewhere as well, in a very vast area stretching from Rome to Genoa), once again, as in its early days, in *cartule promissionis*. In one of these, from the archive of S. Vittore of Varese, finally, greater clarity is shed on its meaning, it seems to me, through the inclusion of a specific clause sheltering the opposing party from any proceedings (*per placitum*) the authors might institute:

ut si unquam in tempore nos corum supra Ingesinda et Adila aut nostris heredibus aut per nostra subnixa persona de iamdicta vinea cum area sua agerimus aut cau-saverimus, vel si de nostrum datum aut factum vel quolibet scriptum exinde in alia parte aparuerit datum aut factum cui nos dedisemus aut fecisemus et te quiete ac pacifice a proprium abere et detinere non permanserimus, vel si per placitum exinde fatigaverimus suplicantes principes aut iudices vel ulla potestas et claruerit, tunc componamus nos qui supra Ingesinda et Adila aut nostris heredibus tibi predicti Amizoni presbitero tuisque heredibus seu cui tu dederis pro pena nomine dubla ipsa vinea cum area sua qualiter superius legitur, sicut pro tempore fuerit meliorata aut valuerit sub

pertinentibus vel de suorum filiis vel filiabus agere aut causare presumpserimus, suplicandum principes aut iudices, dicendum quod nobis exinde aliquit pertinere deberet et vos seu pars ipsius monasterii quiete et pacifice abere non permiserimus».

⁵⁷ ChLA² LX, no. 3: «Unde nunc spondeo adque repromitto me ego Austrebertus vel meis heredes tibi Andreani presbitero vel ad tuis heredes, aut cui tu dederis, ut si aliquando tempore de ipsis rebus quas tibi in pacto interlaxavi plus agere aut causare voluerimus per me vel subpositas personas suplicantem principem vel iudicem aut ipsa res tibi tollere aut contendere aut minuare voluerimus, tunc tantum quantum contendutum aut minuatam fuerit in illo tempore melioratum valuerit duplari promittimus».

⁵⁸ *Codex diplomaticus Amiatinus*, I, no. +84: «non ad eundem iudicium, non supplicandum principibus, neque neque enim per ecclesiasticas interpellationes ullo modo ullaque ratione auferre voluntate, quia et legibus cautum est, ut quod semel donatum vel quoquo modo collatum fuerit, nullo modo revocetur, set involubile modis omnibus hanc mea donationem conservare et custodire promito».

⁵⁹ Carte ravennati, no. 22 ([851 IX 1-867 XII 31]); Carte ravennati, no. 30 (850 IV-877 I 8); Carte ravennati, no. 47 (893 VI 18); Carte ravennati, no. 54 (896 IX 8). In a donation of a Marozia deaconess written by Benedict *scriniarius et tabellio urbis Rome*, the promise not to appeal to an ecclesiastical authority is formulated with direct reference to the pope and, significantly, to the emperor, in the Roman area at the beginning of the Ottonian age: «numquam a me neque ab heredibus et successoribus meis aut a me submissa magna parvaque persona qualibet <sic> modo per cuiuscumque occasione specie seu quod novella et antiquè legimus <sic> constitutionem beneficia, seu privilegia adversum predictis monachis, non interpellandum iudices, non sublicandum principibus vel exortando pontificem sive alie potestatibus intervientes, aut per imperialem interpellationem facere ...» (*Il regesto sublacense*, no. 123 [963 V 19], p. 173).

estimacione in eodem loco et insuper argentum denarios bonos libras quatuordecim, et, post pena composita, exinde homni tempore tacitis et contentis cum nostris heredibus esse, permanere debeamus⁶⁰.

4. *From one kingdom to another*

This limited history of a concise formula, shared early on by notaries of the Lombard kingdom with Ravenna's *tabelliones*, can thus tell us something about the permeability of borders, which from this perspective, too, appear to us to be far less rock-solid than the traditional division of areas on a political-institutional basis would lead us to assume. It is only one of a great many elements – and certainly among minor ones as well – of a broad picture that, through this secondary route too, is criss-crossed by intersections, nuances, hybridisations and adaptations. It informs us about the circulation of models and notarial practices that are formed, become entrenched, fade away and then regain force on the strength of the availability (or temporary unavailability) of authoritative texts or small formulary collections, more or less consolidated schemes or working drafts, which politics, in the ninth century, does not seem capable of directing. In the specific case of the *principi aut iudici supplicando* formula, we could think of the erudite echo coming from some epitome shaped by the model of the *Lex Romana Curiensis*, which, in the exarchate area might have had greater chances of continuous use, and periods of partial oblivion in the rest of northern Italy. It is therefore interesting to discover that, when that formula reappears in territories over the Po River, in the last quarter of the ninth century, it is precisely in a territory where both Bischoff and Mordek locate the production of a manuscript in which even the *Lex Romana Curiensis* – together with other Roman law texts – is copied⁶¹.

Based on what we have been observing, and the examples put forward, it seems therefore as if a negative reply could once again be given to the central question from which we began: that is to say the ascertaining of a direct influence of politics in determining, or at the very least in having an impact on, shared solutions in the evolution of the documentary practices of Carolingian Italy. Once again, it is rather the specific communication tool between the top ruling echelons that we must turn our attention to with a view to detect, in significant forms capable of leaving a durable imprint on the practices, the reasons for the solidity and self-representation of politics. The renewed form of the Carolingian *praeceptum* and some of its precise formulas represented for the Italic kings a reservoir which might be tapped into, as if it were, for a vast and sym-

⁶⁰ *Le pergamene della basilica di S. Vittore di Varese*, no. 15 (1070 IV, Galliate); also in *Codice diplomatico della Lombardia medievale*, < <https://www.lombardiabeniculturali.it/cdlm/edizioni/mi/varese-svittore/carte/vittore1070-04-00b/> >.

⁶¹ Ms. Leipzig, Universitätsbibliothek, Cod. Haen. 8 + 9. Cf. Mordek, *Bibliotheca capitularium*, p. 661.

bolic repertoire (not merely one with a rich visual dimension)⁶². In this case, too, I will limit myself to a small example, taken from a comparative reading of diplomas distributed between the middle and the latter part of the ninth century.

In June 843, as evidenced by a diploma transmitted as an original in the Archivio Capitolare of Arezzo, Lothar I emancipated a servant of his named Adalbaldu:

notum sit quia nos, pro mercedis nostre augmento, in procerum nostrorum presentia servum nostrum Adalbaldum nomine manu propria excutientes a manu eius denarium secundum legem Salicam liberum fecimus et ab omni iugo servitutis absolvimus⁶³.

It was the first act of that kind on the part of the emperor (followed, in 851, by the manumission of the *ancilla Doda*)⁶⁴, and one of the very few (four in total) from the central segment of Carolingian territories to be modelled on the ancient formulary of the *preceptum denariale*⁶⁵. According to the prescriptions of the *Lex Salica*, in fact, the enfranchisement rite was carried out *per excussionem denarii*, in a form totally unknown in pre-Carolingian Italy, and distant both from the “Roman” practices of *manumissio in ecclesia* or *per cartam*, and from the complex (and no less symbolic) ritual evidenced in the *Edict of Rothari*⁶⁶. That, however, was precisely the model eventually followed in the only other two similar deeds available to us for the post-Carolingian *regnum* (a charter issued by Guy of Spoleto, in 892, and one from Berengar I, dating from the year 912), albeit with the significant shift on the semantics of the *consuetudo regia* of what, as seen earlier, had originally been an action performed *secundum legem Salicam*⁶⁷:

Notum esse volumus cunctis nostris fidelibus, qualiter interventu Amolonis sacrosanctae ecclesie Taurinatis venerandi presulis seu Anskerii nostri strenuissimi marchionis, prout legalis ordo atque prisca consuetudo regum deposcit, per denarium de manu eius excusum quandam Martinum filium Mauri de civitate Vercelli ab omni vinculo servitutis vel condicione liberum et apsoletum civemque Romanum esse concedimus atque sancimus.

Noverit igitur omnium fidelium sanctae Dei Aeclesiae nostrorumque presentium scilicet ac futurorum industria, nos pro Dei amore et remedio animae nostre quandam servum nostrum nomine Aregisum cum uxore sua Adelinda et filio suo Adelardo et filia eius nomine Ingeza ab omni servitutis ligamine liberos et ingenuos dimisisse et a manibus eorum secundum regiam consuetudinem publice monete denarium excusisse.

⁶² A topic for some time at the centre of researches on charters as tools of political communication: suffice here, as an illustrating example dispensing with others, the reference to Huschner, *Transalpine Kommunikation*.

⁶³ DD Lo I, no. 74 (843 VI 11, Aachen).

⁶⁴ DD Lo I, no. 113 (851 IV 19).

⁶⁵ A careful examination of legislative references and a complete filing of documentary attestations are found in Kano, *Configuration d'une espèce diplomatique*; see also Bothe, *From Subordination to Integration*, pp. 361-364.

⁶⁶ Esders, *Early Medieval Use of Late Antique Legal Texts*.

⁶⁷ On the meaning of such an expression in documentary deeds from the Carolingian age, cf. Kano, *La loi ripuaire*.

This is, in my opinion, a further interesting testimony of the hybridisation and mobility of documentary formulas. Another form of “crossing” of “borders”, if you like; and, certainly also, in its adherence to the *prisca consuetudo*, a significant ideological model in the new political context in which the Carolingian kings seemed to be constantly searching for the legitimation of their power.

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