

Patrick Breternitz, Königtum und Recht nach dem Dynastiewechsel. Das Königskapitular Pippins des Jüngeren, Ostfildern (Jan Thorbecke Verlag) 2020, 260 S., 5 Abb. (Quellen und Forschungen zum Recht im Mittelalter, 12), ISBN 978-3-7995-6092-4, EUR 35,00.

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As Patrick Breternitz observes in the introduction to this study, King Pippin I (751–768), formerly mayor of the palace to the last Merovingian ruler Childeric III († 755), has benefitted from substantially increased scholarly attention since the turn of the millennium. This new focus on Pippin has helped to bring him out from the shadow of his son Charles the Great and changed in some ways the narrative about the great Carolingian ruler. In particular, scholars, including Patrick Breternitz, are increasingly interested in the ways in which Charlemagne and his advisors drew on reforms to governmental administration that were initiated by King Pippin.

This book-length examination is not a traditional biography, but rather uses the so-called »royal capitulary« of Pippin I as a prism through which to pursue a series of questions regarding governmental administration and legal practice in the period before and after Pippin's *coup d'état* in 751 and subsequent coronation as king of the Franks. The volume is divided into a lengthy introduction, four main chapters of ascending length, each of which focuses on one or more chapters within the »royal capitulary«, and a brief conclusion.

Breternitz begins the introduction with an overview of the state of the question regarding the nature of law under the Merovingians and early Carolingians. He rejects arguments associated, above all, with Hannah Vollrath about the essential orality of early medieval society and points to the substantial corpus of written legal texts, as well as texts that provide information about legal matters, from the Merovingian period and Pippin I's reign. However, he also emphasizes the ways in which early medieval law differs substantially from the practice and conception of law in modern Europe.

Missing from this discussion, nonetheless, is the importance of Roman legal traditions and practices in influencing those in the early Middle Ages. Breternitz also considers the question of the relationship of the spoken language in Romance regions with the Latin used in legal and administrative texts. His conclusion is that the language competency of government officials and legal experts in the late Merovingian period was not as high as usually assumed by legal scholars.



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However, it would have been helpful in this context for Breternitz to address the arguments by Michel Banniard that spoken Romance and written Latin were quite close well into the 9th century. After this background regarding conceptions of law and legal practice, Breternitz provides a useful discussion of the transmission history of the »royal capitulary« and analyzes the historiographical tradition as well as other contemporary texts in an effort to provide a close dating for Pippin's promulgation of the text. He concludes that the capitulary was issued in either 754 or the first half of 755.

In the second chapter, Breternitz examines the first three *capitula* of the »royal capitulary«, which dealt with incest and marriage. He points, in this context, to the enormous attention devoted to questions of incest in the first half of the 8th century in ecclesiastical legislation and papal decrees. Following a detailed analysis of the language used in the capitulary and its comparison to contemporary texts, Breternitz concludes that Pippin's decision to devote attention to these issues was not based upon a superficial effort to appease his bishops, but rather was intended to come to grips with what he and his magnates perceived as a major problem by providing clearer definitions and stricter prohibitions on illicit actions. Breternitz also argues that Pippin saw a political advantage to be gained by addressing these topics by demonstrating his adherence to papal teaching, at a time when papal support for his usurpation of the royal office was quite important. On a related note, Breternitz sees these three *capitula* as an opportunity for Pippin to present himself as a ruler, who was capable of resolving a major problem of interest to ecclesiastical authorities in a manner similar to that of his Merovingian predecessors.

Chapter three considers Pippin's edict on tolls within the context of royal charters that dealt with tolls in the period before and after 751. One of the important findings in this chapter with respect to the practical implications of Pippin's royal accession is that there is no evidence that he issued any toll privileges while still mayor of the palace. Rather, Breternitz argues that it was only after he had gained the royal office that Pippin had the legal authority to grant immunities from tolls. Breternitz then turns to a close examination of the text of the capitulary itself, which is not about tolls as such, but rather is a prohibition on the imposition of tolls on those who are traveling with goods for their own use rather than for sale. The text specifically mentions pilgrims traveling to Rome.

However, Breternitz observes that the prohibition also would have protected traveling government officials as well as soldiers. He concludes that the information provided by charters and the capitulary indicate that Pippin sought to use the royal control over tolls in an ideological sense, that is to demonstrate his commitment to protecting the interests of the people of his realm. By contrast, Breternitz argues against the conclusions of earlier scholars who saw the royal government as maintaining control over tolls for economic purposes. However, he does not provide positive information to support this conclusion.



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The fourth chapter, which focuses on the *capitulum* dealing with minting, is substantially longer than the previous two, and reflects Breternitz's previous published works on numismatic topics. He addresses a series of questions in this chapter, including the organization of minting under the Carolingian kings, the nature of the minting reform instituted by Pippin, the purpose of Pippin's minting reform, and the model for Pippin's minting reform. Breternitz rejects a number of earlier scholarly conclusions regarding these questions, including the idea that Pippin required the minting of heavier weight *denarii* in order to combat inflation, and Rory Naismith's recent argument that the model for Pippin's minting reform came from Anglo-Saxon England.

Instead, Breternitz sees the main reason for Pippin's reform as the removal from circulation of older Merovingian coinage, and the issuing of large numbers of coins with his own name and image, to reinforce his status as king. Concomitantly, he argues that economic and financial motives were of far lesser importance to Pippin. Breternitz also argues that the model for Pippin's monetary reform, and particularly the images and texts chosen for his coinage, came from the Lombard kingdom. Turning Naismith's argument on its head, Breternitz further argues that it was Pippin who influenced Anglo-Saxon coinage rather than the reverse.

The final chapter focuses on the administration of justice, which is treated in the sixth and seventh *capitula* of the »royal capitulary«. The first of these *capitula*, which is very brief, states simply that ecclesiastical immunities were to be preserved. The second, which focuses on secular courts, includes three statements of royal policy: 1. the identification of those who should participate in judicial proceedings; 2. the prohibition of direct appeals to the royal court without first going through the comital court; and 3. the ecclesiastical equivalents for these first two issues. This is the longest chapter of the volume, and Breternitz offers a thorough analysis of both the scholarly traditions concerning these *capitula* and comparisons with contemporary and later legal texts.

Breternitz is undoubtedly correct that this capitulary emphasizes the importance of the comital court in adjudicating legal disputes at the local level, as well as the tendency of Pippin and Charlemagne to take legal disputes among the magnates out of the hands of the count and to have them adjudicated at the royal court. He is also very likely correct that the sixth *capitulum* and the third element of the seventh *capitulum* show the desire of Pippin to ensure that the judicial authority held by ecclesiastical institutions on the basis of the grants of royal immunities should be preserved, but also that abbots and bishops were to ensure the regular holding of judicial assemblies to meet the needs of the king's subjects.

Patrick Breternitz also offers an important intervention on the very old scholarly controversy regarding the origins of the *scabini* and the fate of the *rachemburgi* as fact finders and judgment givers in the comital court. He argues, again correctly in my view, that



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the two institutions likely coexisted for much of the 8th century. He also argues, persuasively in my view, that the *scabini* began as a local institution under the later Merovingians, which was then generalized across the Frankish empire by Charlemagne in the context of his judicial reforms at the turn of the 9th century.

Following his discussion of the treatment of judicial matters in the royal capitulary, Breternitz examines the evidence for judicial practice in Pippin's charters, both as mayor of the palace and as king, as well as the proceedings of six *placita*, again in both the mayoral and royal period. Based on these documents, Breternitz concludes, in a manner very similar to Alexander Murray and Walter Goffart, that Pippin used immunities as a tool of royal power.

In the brief conclusion, Breternitz highlights the points made in the previous chapters, and particularly emphasizes the influence exercised on Pippin by Lombard examples. This model of emulation is supported by the close relationship between the Carolingian family and Lombard court going back to the period of Charles Martel, who worked with the Lombards against the Muslims in southern France, and potentially Pippin's own experiences at the Lombard court. The volume is rounded out with an appendix that includes the text of the »royal capitulary« and a list of extant manuscript witnesses to this document. There is extensive critical apparatus of notes as well as a bibliography of sources and scholarly works.

In sum, this is a very valuable work, and is quite impressive as the revised version of Breternitz' dissertation. He has illuminated several very important questions relating to royal governance under the later Merovingians and Pippin I. Perhaps the most striking revelation is the extent to which Pippin was unable, as mayor of the palace, to exercise the full range of regalian rights with respect to control over tolls, minting, and immunities. Despite the ostensible weakness of the later Merovingian kings, these rights remained *de iure* in their hands, and Pippin apparently did not believe that he could usurp them for his own purposes.

Another important point raised by Breternitz is the extent to which Lombard royal practice influenced the early Carolingian court. Some readers undoubtedly will disagree with one or another point in the text, and a future edition of this text would certainly benefit from a broader treatment of the scholarly literature, including, for example, Susan Wood's magisterial treatment of royal control over church assets in the early medieval period. Nevertheless, this is now an essential book for scholars working on the 8th century Frankish realm.



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