THE DIVORCE OF KING LOTHAR AND QUEEN THEUTBERGA

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translated and annotated by
Rachel Stone and Charles West

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To Edward and Ellie, and in memory of Harry Moseley

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FIGURES

ABBREVIATIONS

AB	*Annales Bertiniani*
ACW	Ancient Christian writers
AF	*Annales Fuldensis*
ANF	Ante-Nicene Fathers (online at CCEL: www.ccel.org/fathers.html)
CCSL	Corpus Christianorum Series Latina
CSEL	Corpus Scriptorum Ecclesiasticorum Latinorum
FoC	Fathers of the Church, Catholic University of America
GCS	Griechischen christlichen Schriftsteller der ersten drei Jahrhunderte
J + no.	P. Jaffe *et al.*, *Regesta Pontificum romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII*, 2nd edn (Leipzig, 1885)
MGH	Monumenta Germaniae Historica
Capit.	*Capitularia regum Francorum*
Capit. Episc.	*Capitula episcoporum*
Conc.	*Concilia*
Epp.	*Epistolae (in Quart.)*
Poet.	*Poetae Latini aevi Carolini*
SRM	*Scriptores rerum Merovingicarum*
SS	*Scriptores (in Folio)*
NPNF	Nicene and Post-Nicene Fathers (online at CCEL: www.ccel.org/fathers.html)
PG	*Patrologia Graeca*, ed. J.-P. Migne, 161 vols (Paris, 1857–66)
PL	*Patrologia Latina*, ed. J.-P. Migne, 221 vols (Paris, 1844–55)
Settimane	Settimane di studi del Centro italiano di Studi sull'alto medioevo

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The book you have before you has its origin in a conversation after a paper at the IHR's Earlier Medieval Seminar in 2006, and was written, in Hincmar's words, 'in the few little hours which we have extorted rather than borrowed from our multiple and very varied occupations'. Over the years that followed, we incurred many debts. Riccardo Bof, Karl Heidecker, Conrad Leyser, Zubin Mistry, Jinty Nelson and Karl Ubl all kindly provided copies of their work, before or after publication. Sam Hayes, Karl Heidecker and Gisela Hillner commented on knotty passages in earlier drafts (though any errors that remain are certainly our own), Mary Young and several anonymous readers provided feedback on the introduction and Hannah Probert expertly produced the accompanying map. The Bibliothèque Muncipale of Rheims and the Bibliothèque Nationale de France both graciously permitted the use of images of manuscripts in their collection, while the team at Manchester University Press has been a paragon of efficiency and understanding. Many others have provided assistance of various kinds along the way: but we should especially like to thank Letha Böhringer for her encouragement and support. We hope that our translation will encourage more people to consult her edition, without which this book would not have been possible.

MAP

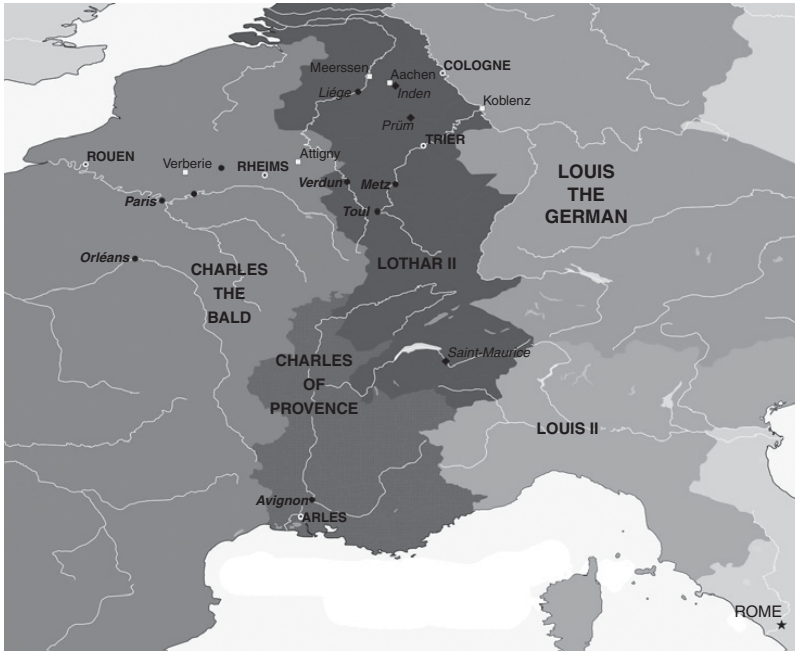

Figure 1 The Frankish kingdoms in 855 (the borders are indicative).

GENEALOGY

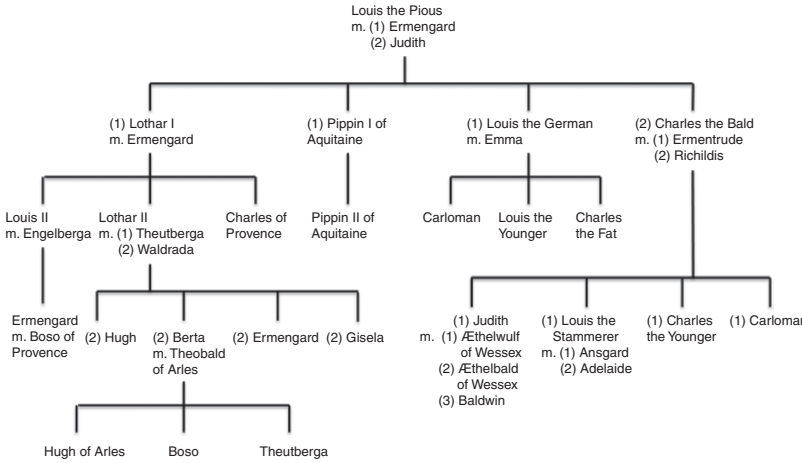

Figure 2 Simplified genealogy of Carolingian rulers.

BIOGRAPHICAL NOTES

Adventius, bishop of Metz

Adventius's family appears to have been relatively undistinguished, but he was an influential figure at Lothar II's court and became bishop of Metz in 858. Though he seems to have been consistently loyal to Lothar II, he nevertheless fostered connections to King Charles the Bald, and played an important role in Charles's coronation in Lotharingia after Lothar II's death in 869. The Treaty of Meerssen in 870 allocated the diocese of Metz to King Louis the German, but Adventius seems to have adapted well to that, too, and remained bishop of Metz till his death in 875.

Charles the Bald, king of West Francia

Born in 823, from Emperor Louis the Pious's second marriage to Judith, Charles was confirmed as king of West Francia by the Treaty of Verdun in 843. Charles took a keen interest in his nephew Lothar II's divorce case, and did not hesitate to interfere when it suited him, for instance by offering shelter to Theutberga. Charles rushed into Lotharingia as soon as he heard of Lothar II's unexpected death, and was crowned king in Metz in 869, though he was later compelled to concede some of Lothar's former kingdom to his brother, Louis the German. Charles died in 877.

Ebbo, archbishop of Rheims

An unusual example of social mobility in the Carolingian world, Ebbo was the son of Louis the Pious's wet-nurse, a connection which enabled him to pursue a very high-flying clerical career. Ordained as archbishop of Rheims in 816, he became caught up in the 833 rebellion against Louis the Pious. After Louis returned to power, Ebbo was publicly forced to give up his office at the Council of Thionville in 835. In 840, after Louis's death, Ebbo briefly returned to his see of Rheims, thanks to the support of Lothar I, but he was soon expelled by the forces of Charles the Bald. In 845, while Ebbo was still alive and attempting to return to his see (he died in 851), a new archbishop of Rheims was elected: Hincmar.

Engeltrude, wife of Boso

Engeltrude was a daughter of Count Matfrid, one of the pre-eminent figures during the reign of Louis the Pious, and was loosely related to Lothar II through his mother. She made an illustrious marriage to Boso, an Italian count who was part of an influential Frankish family group known to historians as the 'Bosonids', and probably Theutberga's brother. In the late 850s, Engeltrude left her husband, perhaps as part of a co-ordinated attempt to curtail the influence of the 'Bosonids'. Engeltrude fled to Lothar II for protection; she probably never returned to her husband, as several popes (and Hincmar) demanded.

Gunther, archbishop of Cologne

Ordained as archbishop of Cologne in the north of Lotharingia in the reign of Lothar I in 850, Gunther was one of the leading figures behind Lothar II's attempts to divorce Theutberga. When Gunther and Theutgaud took the report of the 863 Council of Metz to Pope Nicholas I in Rome, Nicholas rejected the council as invalid; in October 863 he deposed the two archbishops. Apparently abandoned by Lothar II, Gunther energetically contested the pope's decision, but without success. Gunther died in 873.

Hincmar, archbishop of Rheims

Hincmar was brought up in the prestigious monastery of St-Denis, near Paris, and served at the courts of both Louis the Pious and Charles the Bald. A tireless administrator, after his appointment as archbishop of Rheims in 845 Hincmar quickly became a dominant figure not just within the West Frankish kingdom, but in the Frankish Church as a whole, as demonstrated by the appeal made to him by unnamed Lotharingians, which resulted in the composition of *De divortio*. Hincmar made full use of his impressive familiarity with the legal texts of the time in his frequent quarrels with other leading figures, not least his own king, Charles the Bald. Hincmar died in 882 at Epernay, after he was forced to leave Rheims hurriedly in fear of imminent Viking attack.

Hubert, titular abbot of St-Maurice of Agaune

Hubert, brother of Theutberga, was a member of a powerful aristocratic group known to historians as the 'Bosonids'. He was influential

in the lands immediately to the north of the Alps (and the titular abbot of St-Maurice of Agaune), and Lothar II's marriage to his sister in 855 was probably designed to ensure control of this region. When Lothar II abandoned the alliance and tried to rid himself of Theutberga, Hubert proved difficult to dislodge. He was eventually killed in 864 by a rival Frankish aristocrat, Conrad.

Lothar II, king of Lotharingia

Lothar II was the second son of Emperor Lothar I, and was probably in his later teens when his father died in 855. His kingdom covered a space later to be named after him: *Lotharii regnum* or Lotharingia, whence modern French 'Lorraine'. Much of his reign was taken up with efforts to replace his unwanted spouse, Theutberga, with his beloved Waldrada, with whom he had several children. By 869, Lothar II's perseverance seemed to be finally about to win out, as a new pope, Hadrian II, indicated that he might be more flexible than Nicholas I. However, on 8 August of that year, Lothar II fell ill as he travelled back from Rome. He died in the north Italian city of Piacenza, and his kingdom was eventually divided between his uncles.

Louis II, king of Italy and emperor

Louis II was allocated the kingdom of Italy by his father, Emperor Lothar I, even before the latter's death in 855. He was generally supportive of his younger brother Lothar II, despite a dispute over Provence early in their reigns; but these transalpine politics consumed only a small part of his energies, for Louis was most concerned with Italian matters. When Louis died in 875, Charles the Bald took over his kingdom.

Louis the German, king of East Francia

The Treaty of Verdun in 843 allocated the easternmost portion of Emperor Louis the Pious's kingdom to his son Louis, for this reason labelled in later centuries as 'Louis the German'. Louis was sympathetic to Lothar II during the early part of his reign, but his support was finely calculated, and Louis on occasion joined Charles the Bald in condemning the morals of their nephew. He later joined Charles in partitioning out Lothar's kingdom after his death, in a division confirmed by the Treaty of Meerssen of August 870.

Nicholas I, pope

The pontificate of Nicholas I (858–67) was eventful, largely as a consequence of Nicholas's own heightened consciousness of the power and responsibility of the papal office. His position on the divorce was consistent from the moment it came to his attention in 860: he saw no justification for the divorce to take place, and was clear that Lothar II could never marry Waldrada. His excommunication and deposition of archbishops Gunther and Theutgaud in 863, unprecedented in recent papal history, demonstrated his resolve and his confidence in his own authority. Only after Nicholas's death, with the accession of the less intransigent Hadrian II, did alternative possibilities briefly open up for the beleaguered king and his supporters.

Theutberga, queen and wife of Lothar II

As a member of an important Frankish family, Theutberga's marriage to Lothar II in 855 offered the king powerful and influential in-laws, notably her brother Hubert. Lothar II soon changed his opinion about this alliance, and began attempts to separate from her within just a few years. Fleeing to the court of Charles the Bald, Theutberga's subsequent reconciliation to Lothar II in 865 was a charade. Even before Lothar II's death, Theutberga became abbess of the rich monastery of St-Glossinde in Metz, and was also abbess of Avenay near Rheims. She was still alive in 876, when a relative bequeathed a medical book to her.

Theutgaud, archbishop of Trier

Theutgaud became archbishop in 847; he was the nephew of Hetti, the previous archbishop. He and Gunther were excommunicated and deposed by Pope Nicholas in 863. Unlike Gunther, Theutgaud seems to have accepted this sentence. He died in 868.

Waldrada, queen and wife of Lothar II

Waldrada was the mother of Lothar II's children, Hugh, Berta, Gisela and Ermengard, some of whom were possibly born before Lothar married Theutberga in 855. Waldrada came from a family that was aristocratic, but perhaps less important than Theutberga's. Crowned as queen in 863, Waldrada was excommunicated by Nicholas I in February 866. After Lothar II's death, she retreated like Theutberga to a convent, in her case Remiremont. Waldrada died on 9 April, but we do not know in which year.

INTRODUCTION

Between 858 and 869, an unprecedented scandal played out in Frankish Europe, becoming the subject of gossip not only in palaces and cathedrals, but even, as contemporary report had it, in the weaving sheds of peasant women.[1] For it was in these years that a Frankish king, Lothar II, made increasingly desperate efforts to divorce his wife, Queen Theutberga, and to marry instead a woman named Waldrada. Despite attempting every strategy at his disposal, including trial by ordeal, orchestrated public ceremony and formal written confession, Lothar II did not succeed; he died on 8 August 869, still married to Theutberga.

Lothar II thereby became the first European ruler to fail to rid himself of an unwanted spouse.[2] He would not be the last; but his failure was unusually weighty in its consequences, for as a result, his kingdom died with him. Today there survives only a shadowy memory of a realm that once straddled the modern border between France and Germany: Lotharingia, the Middle Kingdom.[3] This was a marriage dispute, then, on which rested the fate not just of just individual kings and queens but of whole kingdoms, and whose outcome durably shaped European history.

This book is a translation of the most significant source for this attempted divorce, a treatise known as *De divortio Lotharii regis et Theutbergae reginae*, written in 860 by Archbishop Hincmar of Rheims. In this introduction, we shall introduce the treatise and its author, and discuss some of its implications. It is not an easy work to follow, but it sheds much light on the Frankish world of its protagonists and on early medieval Europe in general. Our first task, however, is to understand the divorce case in its immediate political context, for these circumstances gave Lothar II, Theutberga and all the other participants their parameters of action.

1 Response 3: 122.

2 d'Avray 2015 surveys the royal marriage cases in which the medieval papacy became involved.

3 On the kingdom, see Airlie 2011 and MacLean 2013. The original kingdom, created in 843, comprised a long stretch of territory west of the Rhine, from the North Sea down to the Provençal coast, as well as northern Italy. After 855, it was subdivided into three kingdoms: Lotharingia, Provence and Italy.

1 The political background

Charlemagne's heirs

For a full understanding of the politics of Lothar II's attempted divorce, we should begin with the Franks' most famous king, Charlemagne (768–814).[4] After his brother Carloman's death and the subsequent disappearance of Carloman's wife and children, Charlemagne became the sole king of the Franks. Intensive campaigns of military conquest extended his rule from Catalonia to Hungary, while he also inaugurated a programme of religious and intellectual reform that stressed the need for kings and their subjects to please the Christian God who had helped the Franks to triumph over their enemies.[5] The scale of Charlemagne's subsequent achievement, and particularly his coronation as emperor in 800, set a powerful precedent for later Frankish kings who sought to model themselves on the man whom Hincmar and others already referred to as Charles 'the Great'.[6]

By chance, just one of Charlemagne's sons from legitimate marriage survived to adulthood, and thus to rule over the Franks.[7] This son, Louis the Pious, eliminated a potential rival, his nephew Bernard, with a ruthlessness belying his epithet.[8] But Louis the Pious was more, or perhaps less, fortunate than Charlemagne in the survival of his own children: from his first marriage, three sons (Lothar I, Pippin I and Louis the German) survived into adulthood. Louis conferred the imperial title upon the eldest, Lothar I, in 817; Lothar's younger brothers were also to be kings, but in subordination to him. The situation was complicated with the birth in 823 of a half-brother, Charles the Bald, from Louis's second marriage to Judith. Lothar I, Pippin and Louis the German all rebelled against their father in the 830s, and in 833 they even briefly deposed him, an event that shook the Frankish world.[9]

4 On Charlemagne, see Story 2005; Collins 2010: 280–99.

5 See Costambeys, Innes and MacLean 2011: 65–79 for the conquests and 142–53 for the programme of reform.

6 Nelson 1992: 13; see Response 6: 165.

7 On Louis the Pious, see de Jong 2009, especially 14–58.

8 Louis voluntarily did penance for his blinding of Bernard at an assembly at Attigny in 822: de Jong 2009: 35–6, 122–31. Response 5: 137 reveals Hincmar's presence at this assembly and his recollection of how the case of Northild was settled there.

9 On the rebellion, see de Jong 2009: 214–59. Ebbo, Hincmar's predecessor as archbishop of Rheims, played a prominent part in this rebellion: see 11.

Although Louis regained the throne in 834, conflict within the family continued, and Louis's death on 20 June 840 led to open war between the three surviving brothers, Lothar I, Louis the German and Charles the Bald. After two years of fighting, and Lothar I's long-remembered bloody defeat at Fontenoy (25 June 841), peace was eventually made at the Treaty of Verdun (843), which allocated approximately equal shares of the empire to all three parties. The 'vertical' division of western Europe it entailed (into West Francia, the Middle Kingdom and East Francia) would prove hugely influential in the long run, but at the time it was conceived as no more than provisional.[10] After 843, Lothar I's concerns were primarily with Italy, but both Louis the German and Charles the Bald harboured ambitions to reunite Charlemagne's heritage.[11] Despite several subsequent treaties between Lothar I, Charles the Bald and Louis the German, in which they pledged mutual co-operation, the kings continued in their attempts to undermine each other's position.[12]

When Lothar I died peacefully on 29 September 855, his kingdom was divided between his own sons, as he seems to have wished. The eldest, Louis II, was given Italy; Provence went to the youngest son, Charles; Lothar II, the key figure for this book, was allocated the Frankish heartlands north of the Alps.[13] Louis II felt unfairly treated by this allocation and was looking to challenge it; Charles seems to have been sickly and therefore vulnerable. Lothar II's immediate concern, therefore, was to protect himself against Louis II, while also attempting to take over the kingdom of his younger brother.[14] It was probably this conjuncture that led him, shortly after his father's death, to marry Theutberga, whose brother Hubert was abbot of St-Maurice d'Agaune in Switzerland and controlled the region around key Alpine passes.[15] Once Lothar II had made a peace treaty with his brothers in the second

10 Nelson 1992: 132–4.

11 On Louis the German, see Goldberg 2006; on Charles the Bald, see Nelson 1992. Charlemagne's empire was briefly reconstituted under Charles the Fat: see MacLean 2003a: 123–9.

12 For the events of Charles's early reign, see Nelson 1992: 132–80. Response 12: 208–9 refers to a specific clause of the agreement made by the three kings at Meerssen in 851.

13 On Lothar II's activities before 857, see Heidecker 2010: 51–62.

14 Bauer 1994b: 42.

15 On Hubert see Biographical notes; Heidecker 2010: 59–62, 71–2. Response 12: 204 shows him as handing over Theutberga to be married, implying that their parents were dead by 855. Hubert is described relatively neutrally as a 'married cleric' by Hincmar in *AB* 862: 98, and so was probably only in minor orders. The claim by Heidecker 2010: 68 that he may have abused Theutberga must be compared with the statement of *AB* 860: 93 that she fled 'to her brother'.

half of 856, however, the strategic significance of this region (and hence of the marriage) was greatly diminished.[16]

Though the tensions with his brothers were alleviated, it remained important for Lothar II to secure himself against his uncles. When Lothar I died, the magnates in Lothar II's portion of the kingdom sought support from Louis the German for their new king, and Louis probably formally adopted Lothar II.[17] In March 857, however, Lothar II chose to renew his father's alliance with Charles the Bald; Louis the German responded with an alliance with Lothar II's brother, Louis II.[18] Lothar II may have felt confident that he could play his uncles off against each other, and it was after his treaty with Charles the Bald that he made his first attempt to divorce his wife.

The chronology is somewhat uncertain, but it is likely that the initial charges against Theutberga were made in the second half of 857, and that Theutberga's champion undertook an ordeal in the early summer of 858.[19] As a result of this champion's success, Lothar was forced to take Theutberga back, though she may not have fully regained her position (the *Annals of St-Bertin* claim he kept her in custody).[20] The failure of this first attempt probably reflects political difficulties in Lothar II's court (as discussed below).

The political situation changed abruptly in August 858 when Louis the German, encouraged by West Frankish opponents of Charles the Bald, invaded his brother's kingdom. Initially it seemed that the invasion would oust Charles the Bald, and in November 858 Lothar II travelled to the palace of Attigny, deep in Charles's kingdom, to make an alliance with Louis the German.[21] Charles the Bald, however, was able to force his brother to retreat, and Lothar II then 'hastened' to reaffirm his previous alliance with the uncle on his western border.[22] Lothar II's support was valuable to both his uncles, and he now became a mediator in

16 The treaty was made at Orbe in Switzerland (*AB* 856: 83). Louis II later supported his brother in his divorce attempts, but his interventions were not significant until after 860: see Heidecker 2010: 141–2.

17 *AF* 855: 37; on the adoption, see Bauer 1994a: 20.

18 *AB* 857: 84.

19 Lothar was probably already attempting to rid himself of Theutberga before his unsuccessful expedition against Hubert in December 857. *AB* 857: 84 refers to Lothar 'putting ⌊her⌉ aside'. On ordeals, see below, 36–8.

20 *AB* 858: 87, dating her return to between the election of Nicholas I in April and Charles's siege of Oissel in July.

21 On this crisis, see Nelson 1992: 185–91.

22 *AB* 858–59: 89–90.

the long-drawn-out attempts to reconcile them. After a treaty made in 858, he also became the official heir to his brother Charles of Provence's kingdom.[23] Visiting his other brother Louis II in Italy in late 859, he handed over territory beyond the Jura mountains, both securing Louis's favour and ridding himself of a region dominated by Hubert.[24]

It was in these propitious circumstances that Lothar II began his second attempt to end his marriage with Theutberga, this time relying more directly on his bishops.[25] On 9 January 860 in the palace of Aachen, Theutberga allegedly confessed to one or more bishops certain sinful actions with her brother Hubert, actions that she claimed made her unworthy to be Lothar II's wife.[26] Lothar had reframed his marriage dispute as not simply concerning his role as husband and lord, but as the response of a Christian ruler to grave sins within his realm.[27] In order to support this procedure, bishops from beyond his own kingdom were invited to a council to be held at Aachen a few weeks later (the so-called Second Council of Aachen, held in February 860).

One of these bishops was Hincmar, archbishop of Rheims, who received a personal visit from Bishop Adventius of Metz on 25 January. Hincmar, however, was suspicious of the invitation and declined.[28] Others may have had similar reactions, since in the end only seven archbishops and bishops are mentioned as taking part in this February council. Three of these, however, came from outside Lotharingia, and the council was assembled in the names of Louis the German, Charles the Bald and Lothar II, so the council at least made a nod to representing the Frankish Church as a whole.[29] It was

23 *AB* 858: 87. In return Lothar II granted the counties of Belley and Tarentaise to Charles of Provence.

24 *AB* 859: 91. Schrörs 1884: 183 sees Lothar as hoping for Louis's help in gaining papal favour. Lothar later alleged (Response 1: 105, 109) that it was during the Italian trip that further rumours about Theutberga's conduct were made.

25 Response 3: 122 says that 'many bishops' had already been present at the ordeal in 858: those present included also some of those who wrote to Hincmar (Response 10: 178).

26 There are two slightly different accounts of this meeting: the so-called Booklet of Eight Chapters (Question 1: 96–8) and the Booklet of Seven Chapters (Response 1: 104–6); the latter gives the date. The events of 9 January are normally referred to as the First Council of Aachen, though they may have been merely preparations for the 'second' council in February. The suggestion by Firey 2009: 15–16 that there was only one 'council'/event seems implausible, given the dating of the documents.

27 Patzold 2010: 398–9.

28 Question 3: 120–1. On Adventius, see Staubach 1982: 153–214; Gaillard 1995.

29 Response 1: 107: the three bishops were Wenilo of Rouen, Hildegar of Meaux and Halduin/Hilduin of Avignon.

before the kings, bishops and secular magnates present at this council that Theutberga made a formal confession, and accepted a public penance.[30]

At first, Lothar II's manoeuvre seemed to have succeeded. There were still clerics and laymen within his kingdom who were hostile to his plans, and some of these contacted Hincmar and other bishops outside Lotharingia for advice; the fact that they asked for their names to be kept secret, however, suggests limits to their power.[31] Lothar II's relationship with his uncles also seemed secure; in June 860 at Koblenz, a peace treaty was concluded between Lothar II, Louis the German and Charles the Bald.[32] Yet by involving the Church more centrally in the divorce proceedings, the king had opened the way for a wide circle of participants to claim the right to become involved, and even to revisit the ordeal of 858.[33] Lothar's determination to be rid of Theutberga and his chosen strategy for doing so would prove very costly.

Lothar II's motivations

Three main suggestions have been made for why Lothar II was so resolute in his efforts to be rid of Theutberga. One focuses on his attraction to Waldrada, the woman he wished to marry, and with whom he had probably been in a relationship even before his marriage to Theutberga.[34] A second argues that his aim was to secure the succession, and that he divorced Theutberga because of her sterility.[35] A third view emphasises the changing political significance of Theutberga's family, specifically her brother Hubert.[36] Recently, many historians have preferred the latter two geopolitical explanations; yet these more 'realistic' interpretations are not necessarily easier to square with the evidence.

From the dynastic perspective, Lothar II and Theutberga had no children, and she herself asserted that she was sterile. However, that

30 Response 1: 109–10. Schrörs 1884: 185–6 suggests the involvement of lay magnates was to prevent their later resistance to the decision.

31 See below, 17.

32 *AB* 860: 93.

33 Bauer 1994b: 51; Patzold 2010: 397, 405. The significance of Theutberga's champion's success in the ordeal was debated: see below, 36–7.

34 See e.g. Schrörs 1884: 176–7; Airlie 1998: 3, 11–12. On the relationship, see Heidecker 2010: 52; Karras 2012: 38–42; *AB* 853: 77.

35 See e.g. Brühl 1964: 58–9; Staubach 1982: 119; Bauer 1994b: 45–6.

36 See e.g. Konecny 1976: 104–7; Böhringer 1992: 16–17; Heidecker 2010: 65.

assertion was only made late in the divorce process (867), while the initial allegations against her, which included the claim that she had aborted a child, implied that she was fertile.[37] Moreover, if the problem was the lack of an heir, it would be difficult to explain Lothar's determination to marry Waldrada in particular. Lothar had probably already had children with Waldrada before his marriage, but marriage to another young Frankish girl would also have offered him good prospects of children.[38]

It is also unlikely that Lothar II would have been preoccupied with his succession in 860. At that point, Lothar was only in his mid-twenties, while Charles the Bald (b. 823) was thirty-seven and Louis the German in his mid-forties. Although in fact Lothar II died before his uncles, had he lived to sixty as his father, grandfather and great-grandfather had all done, he would have outlived not only Charles and Louis but perhaps even their sons, and been in contention to inherit a substantial part of the Frankish empire.[39] In 860, Lothar's need for a legitimate son was real, but not urgent.

An alternative geopolitical explanation is to see Lothar II's policy as motivated by opposition to Hubert, whose political value had vanished with the Treaty of Orbe in late 856.[40] In this view, Theutberga was an unwanted legacy of an outdated alliance. Allegations that Hubert was committing 'homicides and innumerable adulteries and disgraceful fornication and illicit and intolerable plundering' in the St-Maurice area may have led Lothar to decide that the accusations of incest with his sister would seem plausible.[41] Yet by the start of 860, Hubert's position had been considerably weakened, and Lothar II had made territorial grants removing the areas under Hubert's control from his kingdom.[42]

37 Böhringer 1992: 13–15: explicit references to sterility first appear in the letters of Nicholas I from 867 (*Epistola* 45, 46, MGH *Epp.* 6: 320, 324). In particular, Adventius of Metz's account from 863 (*Epistolae ad divortium Lotharii regis pertinentes* 5, MGH *Epp.* 6: 215–17; Dutton 2003: 386–9) refers neither to sterility nor to non-consummation of the marriage.

38 On Waldrada's children, see Heidecker 2010: 52 n. 5. The names of Waldrada and three of her children (Hugh, Berta and Ermengard) are entered in the memorial book of the convent of Remiremont. Schmid 1968 dates this entry to the end of 861, but Gaillard 2006: 53 thinks it was written 863x865. Another daughter, Gisela, is mentioned in Regino, *Chronicle*, 882: 187. On the significance of these children's names, see below, 63, n. 404.

39 In 885, the only remaining legitimate adult male in the Carolingian line was Charles the Fat, who thus briefly controlled the whole of the empire.

40 See above, 4 n. 16.

41 Pope Benedict III, Letter to Hubert in 857 (MGH *Epp.* 5: 613).

42 See above, 5 n. 24.

Whereas Hubert and Theutberga had had sufficient political support for the ordeal to be decided in their favour in 858, there was no effective resistance to Lothar's actions at the Aachen councils in 860. By the time Hincmar wrote the first part of *De divortio*, Hubert had already fled to Charles the Bald (although he hung on to some of his alpine possessions).[43]

If Hubert was no longer a significant threat to Lothar II by 860, the latter's determination to achieve a divorce cannot be explained in this way, and makes even less sense after Hubert's death in 864.[44] If, instead, Lothar II's divorce was intended to replace a now politically insignificant Theutberga with a more advantageous marriage, why did Lothar insist on Waldrada as his second wife? Although she was probably noble, her family background is uncertain; if she had important political connections, it is difficult to explain why he put her aside in 855.[45]

These problems with Lothar II's alleged geopolitical motives mean that personal factors must be taken into account. They are certainly amply reported by the sources; Bishop Prudentius of Troyes in 860 talked of Lothar's 'irreconcilable loathing' for Theutberga, Hincmar described Lothar as 'ensnared in a blind passion by the wiles of his concubine Waldrada', Pope Nicholas warned Lothar about excessive passion for a woman, and the questions about love magic sent to Hincmar make clear that others saw emotional factors as key.[46] Such reports cannot simply be dismissed as naïve: Carolingian authors were perfectly able to recognise the political significance of marriages. In Lothar's long-lasting attempts to divorce Theutberga and marry Waldrada, the 'personal side' has to be taken seriously. It was precisely the way that royal bodies combined both personal and public concern that made kings and their consorts different from their subjects.[47]

43 *AB* 860: 93 and n. 7; Response 12: 207. *AB* 864: 121 describes Hubert as 'holding on to the abbacy of St-Maurice and other *honores* belonging to Emperor Louis of Italy against his [Louis's] will'.

44 Airlie 1998: 11–12.

45 Bauer 1994b: 45–6 summarises the debate on Waldrada's origins; see also Gaillard 2011: 305–6, suggesting possible links to the Welf family.

46 *AB* 860: 92; *AB* 862: 102; Nicholas I, *Epistola* 46 (MGH *Epp.* 6: 325): 'pro unius mulierculae passione et brevissimi temporis desiderio'; Question 15: 235.

47 Airlie 1998; Stone 2007b.

Charles the Bald and Louis the German

It has often been supposed that Lothar II's uncles deliberately attempted to sabotage his efforts to divorce Theutberga, by lobbying the pope, sponsoring opposition within Lotharingia, and not least by promoting Hincmar's intervention, all in the hope of inheriting Lothar's kingdom. As already suggested, however, it could hardly be foreseen in the early stages of the affair that Lothar would die prematurely and without legitimate heirs. Nor were Charles and Louis invariably hostile to their nephew. The council in February 860 that separated Lothar from Theutberga was summoned in the names of Lothar II, Louis and Charles, and though Hincmar was not present, two bishops from Charles's kingdom were.[48] The presence of Lotharingian bishops at the Council of Tusey in West Francia at the end of 860 also suggests that friendly relations were still possible between Charles and Lothar II; during the council Hincmar was even asked for advice on a separate marriage case by the Lotharingian archbishop, Gunther of Cologne.[49]

Relations between Lothar II and Charles had obviously deteriorated by 861, but this only brought Lothar II and his other uncle, Louis the German, closer together. At the end of the year, they jointly wrote to the pope to complain about Charles, and Louis may then have celebrated Christmas with Lothar II, and, perhaps, Waldrada.[50] Political possibilities remained fluid throughout the whole period: as late as 867 Nicholas I was writing to Charles the Bald to warn him against allying with Lothar and abandoning his support for Theutberga.[51]

Yet though it is unlikely that either Charles the Bald or Louis the German had a grand strategy, both kings were working in a political framework in which the reconstitution of Charlemagne's Frankish empire was always thinkable and desirable. No one could know what the outcome of the divorce attempts would be, but it would have become clear as soon as Lothar II hit difficulties that there was political capital

48 See above, 5.

49 Gunther asked for advice on the case of Engeltrude: see Hincmar, *De uxore Bosonis* (MGH *Epp.* 8: 81–2) and below, 50. On Gunther, see Biographical notes, and Georgi 1995. Hincmar made harsh comments about him at various points in *De divortio* (see e.g. Response 7: 168–9) but as well as their interaction at Tusey, in 865, after Gunther had been deposed by Nicolas I for his role in Lothar II's divorce, Hincmar helped circulate letters protesting at his treatment (Heidecker 2010: 167).

50 *Epistolae ad divortium Lotharii regis pertinentes* 3 (MGH *Epp.* 6: 212–14). See above, 7 n. 38 on the possible date of this meeting.

51 Nicholas I, *Epistola* 48 (MGH *Epp.* 6: 329–32).

to be made. At the very least, Charles and Louis could extort concessions in exchange for limited support or non-interference, as demonstrated by Lothar II's grants of lands and territories at different times to each uncle. Lothar II himself wrote in 864 that his uncles hoped to acquire his kingdom.[52]

Above all, particularly in Lothar II's darkest days – between 863 and 868 – the possibility that he might actually be deposed glittered on the horizon. Ruling Frankish kings had retired to monasteries before, and in the case of Louis the Pious in 833, had been coerced into doing so, partly on grounds of sexual misconduct within his own family.[53] His uncles watched as Lothar II became increasingly vulnerable to such charges. It is possible that suggestions he ought to do public penance had deposition as a sub-text: after all, Frankish bishops had not formally deposed Louis the Pious in 833, but they had achieved the same end by imposing a public penance on him, rendering him incapable of fulfilling the royal office.[54]

The very fact that Lothar II was unable to bring the divorce to a successful conclusion points to a tenacious opposition within his own kingdom, perhaps the same opponents who requested Hincmar's intervention. Charles the Bald and Louis the German were without doubt working hard behind the scenes to ensure that if the pope were to excommunicate the young king, they would have supporters within his kingdom who could promote them as more morally upright alternatives. By the mid-860s, both had a track record of opportunistic invasions of their relatives' kingdoms.[55] The divorce case promised them much if they played their cards right.

2 Hincmar of Rheims

Hincmar's appointment to Rheims

The author of our treatise, Hincmar, was of noble birth, and related to several counts; he was probably born in the first decade of the ninth

52 *Epistolae ad divortium Lotharii regis pertinentes* 7 (MGH *Epp.* 6: 218): 'in concupiscentia regni nobis'.

53 On the allegations about Louis's wife Judith, see Ward 1990; de Jong 2009: 185–205.

54 *AB* 833: 87–8: the assembly at Compiègne 'harassed him [Louis the Pious] for so long that they forced him to lay aside his weapons and change his garb to that of a penitent, driving him into the gates of Holy Church'. On penance, see below, 39–42.

55 *AB* 861: 96 gives Hincmar's hostile response to Charles the Bald's invasion of Provence.

century.[56] Brought up and educated in the rich monastery of St-Denis, he soon developed contacts with the imperial court of Louis the Pious. After Louis's death in 840, Hincmar supported Louis's youngest son, Charles the Bald, in his battles with his older brothers Lothar I and Louis the German. Hincmar's familiarity with the court and his intellectual talents together probably explain his appointment as archbishop of Rheims in April 845, where he would remain until his death in 882.[57] This was an important role, and shows the trust the young King Charles had in Hincmar. However, Hincmar's appointment to Rheims was not uncontested, since the position was at the time still claimed by his predecessor.

That predecessor was Ebbo, archbishop of Rheims since 816.[58] Ebbo had supported Lothar I against his father in the great rebellion of 833–34, and was singled out for punishment after Louis's restoration to the throne. Louis had previously deposed bishops for treason, but such a charge in Ebbo's case might have raised embarrassing questions about the many other rebels who had been pardoned.[59] Instead, at a council in Metz in early 835 Ebbo 'voluntarily' admitted that Louis had been unjustly deposed, and at the Council of Thionville soon afterwards confessed to having committed a 'capital crime' and resigned from his office because of his 'unworthiness'.[60]

Ebbo was sent to the monastery of Fulda to do penance, but he did not remain there for long. Declaring the 835 deposition an invalid show trial, and claiming that he had not been formally judged, he was able to regain his position in Rheims in 840–41 with the support of Lothar I. He was soon forced to flee by Charles the Bald's military successes, but not before he had ordained a number of clerics, some of whom would go on to become influential figures.[61] These men's ordinations rested on the invalidity of Ebbo's deposition in 835, while Hincmar's position as archbishop depended on that deposition's legitimacy: for Ebbo had still been alive – and claiming Rheims – when Hincmar was appointed

56 On Hincmar's career, see now Stone and West 2015, and in particular Stone 2015 and Nelson 2015: 44–7.

57 On bishops and archbishops, see below, 74–5.

58 On Ebbo's earlier distinguished career, see McKeon 1974.

59 On episcopal deposition, see e.g. *Annales regni Francorum* 818: 148 (Scholz 1970: 104); *AB* 863: 108. It is often not clear from such texts whether a deposed bishop is being removed only from his episcopal office or also from the priesthood.

60 *AB* 835: 32–3. On the events of Thionville, see de Jong 2009: 254–9. Hincmar had been present at this synod (Response 2: 114) and cites one of the contemporary texts discussing the deposition (Response 2: 119).

61 In particular, Wulfad, the future archbishop of Bourges: see Stone 2015: 15–16.

in his place in 845. As a result, the clerics ordained by Ebbo, along with opponents of Hincmar, continued to argue about Ebbo's deposition even after his death in 851, potentially threatening Hincmar's own status.[62] In 860 those supporting Lothar II's divorce were still able to discomfort Hincmar by drawing parallels between the trials of Ebbo and Theutberga; the matter was only finally settled in 868.[63]

Hincmar as archbishop

The archbishopric of Rheims was certainly a prize worth fighting for. Rheims itself was a resonant place for Frankish history: Clovis, the first king of a united Frankish kingdom, had been baptised by St Remigius, archbishop of Rheims, at the end of the fifth century, and Hincmar made much of this tradition.[64] The cathedral was also a wealthy institution, owning estates both in the surrounding region and in distant parts of the Frankish world.[65] Part of this wealth was channelled into supporting the cultural activities of the archbishops, and Hincmar in particular seems to have developed the archiepiscopal library, and to have fostered an active scriptorium, where manuscripts were copied by teams of scribes working under his command.[66]

The archbishop of Rheims also enjoyed leadership of an ecclesiastical archdiocese or province that was a core part of the Frankish world. The bishops of several nearby sees (including Soissons, Châlons-en-Champagne, Laon and Cambrai) were formally subordinated to Rheims, though the precise extent of Hincmar's power over them was uncertain and frequently contested.[67] Hincmar's province included many of the most influential and famous of Carolingian monasteries, in particular Corbie, linked to the production of the Pseudo-Isidore forgeries.[68] It was also the location for many royal palaces, where King Charles, and Hincmar with him, would spend a great deal of time. As such, it was absolutely central to Charles's kingdom;

62 Patzold 2008: 315–50; Booker 2009: 186–209 detail the continued struggles over Ebbo's deposition, including Ebbo's own arguments on the lack of judicial process at Thionville.

63 See below, 44.

64 See Isaïa 2015 on Hincmar's *Vita Remigii*.

65 Stratmann 1991: 45–53 discusses Hincmar's activities in protecting and regaining these estates.

66 Carey 1938; Dolbeau 2012.

67 On the geography and divisions of the province of Rheims, see Sot 1993: 17–42.

68 On Pseudo-Isidore, see below, 23.

through Cambrai, however, Hincmar's province also stretched into Lothar II's kingdom, which brought both problems and opportunities.[69]

Yet Hincmar's reputation did not rest solely on his institutional position, but also on his learning and forceful personality.[70] He was a prolific author.[71] From 848 onwards, he had been drawn into theological controversies about predestination, making a number of intellectual enemies in the process.[72] In 861, he took over writing the *Annals of St-Bertin* (*Annales Bertiniani*), one of our most important sources for West Frankish history.[73] Though not yet the dominant force that he would become, by 860 he had already won a name for himself as an expert in matters of Church tradition, having written substantial treatises on Church property and on the abduction of women.[74] It is therefore no surprise that his opinion was canvassed about King Lothar II's divorce; indeed, Lothar II's supporters claimed that Hincmar had already consented to the procedure that separated Lothar and Theutberga.[75]

Hincmar's motives for intervention

On the face of it, Hincmar's motives for writing *De divortio* are self-evident: he was one of a number of bishops whose opinion had been canvassed by a group from Lotharingia, including bishops and laymen.[76]

69 On Hincmar's difficult early relations with Lothar I, who attempted to remove him from his office, see Screen 2015.

70 Böhringer 2007: 268 thinks that Hincmar's diplomatic and negotiating skills may also explain why he was approached. Böhringer 2011: 148 points out Hincmar's skill at providing theological and canonical justifications for existing Frankish practices, such as the ordeal. On Hincmar's early career, see Devisse 1975–76: I, 115–279; Stone 2015: 7–10.

71 A list of Hincmar's extensive works can be found on the Repertorium 'Geschichtsquellen des deutschen Mittelalters' website, www.geschichtsquellen.de/repPers_118551280.html (accessed 12 February 2016). An increasing number are available in modern editions, but relatively few have been translated into English. Our *Collaborative Hincmar Project* blog, http://hincmar.blogspot.co.uk/ (accessed 12 February 2016), lists known translations and includes additional translations by us of works by Hincmar and his contemporaries.

72 On predestination (whether God had already decided who would go to heaven and hell), see Gillis 2015.

73 On the *Annales Bertiniani*, see Nelson's introduction to her translation. The annals are also important evidence for the early history of Lothar II's divorce; they were then written by Prudentius of Troyes, who was on bad terms with Hincmar.

74 On the *Collectio de ecclesiis et capellis*, see Wood 2006: 804–12; on *De raptu*, see Joye 2015.

75 Question 1: 96; Question 3: 120.

76 Preface: 92.

This group wanted their identity to be kept secret, but we may presume they were either unconvinced by the arguments for Lothar II's divorce and wanted a second opinion, or were flatly opposed to it and looking for ammunition.

Hincmar claimed that he was reluctant to become involved, and did so only because he had a duty to teach others.[77] That should perhaps be viewed with scepticism, but there is no doubt that his position was a delicate one. As we shall see, the rules about marriage were by no means fully established in 860. What is more, intervention in a case outside his ecclesiastical province left Hincmar open to the charge of exceeding his authority.[78] Moreover, there was the potential for papal involvement in the case, since appeals to the pope by Franks were becoming increasingly common in the second half of the ninth century.[79] Hincmar may not have been aware that Theutberga had already appealed to Pope Nicholas before 860, but he did know that Lothar II's court was in contact with Rome.[80] He would have realised that the eventual outcome was very difficult to predict and that there was the risk that what he wrote could come back to haunt him later. It is this that explains why *De divortio* is in general so circumspect: Hincmar was covering his back.

That circumspection has allowed some historians to surmise that Hincmar wrote to support his own king's position by blocking Lothar II's divorce.[81] Yet this seems unwarranted. Hincmar is by no means consistently opposed to remarriage as an outcome in *De divortio*, especially in the part of his text he wrote first (see below, 16–20).[82] His opinion does seem to have hardened during 860, but some of his sharpened rhetoric may reflect his shock at the assumptions underlying new

77 Preface: 92–3.

78 See below, 45–54 and 74–5.

79 de Jong 2015; Hincmar had already had several bruising encounters with popes, including one concerning a marriage dispute: see Stone 2007a: 472. Question 3: 120 reports rumours that he had sent letters via Adventius to the papacy agreeing with Lothar's actions.

80 See Böhringer 1992: 12 on Theutberga's appeal. It is possible that Hincmar was aware of papal involvement by the time he wrote the second part of *De divortio*: see Appendix Response 7: 318. On the planned mission to Rome by Adventius, one of Lothar's supporters, see Response 3: 124–5; Flodoard, *Historia Remensis ecclesiae* 3, 23: 303. Although Adventius is not mentioned as taking part in the Second Council of Aachen (Response 1: 107), Böhringer 1992: 12 n. 72 thinks the trip never took place.

81 See e.g. Brühl 1964: 59; Staubach 1982: 128–31. Ubl 2008: 349, by contrast, sees Hincmar as actively trying to assist Lothar. Böhringer 2007: 286–8 warns against treating Hincmar's views as purely cynical.

82 As Böhringer 2011: 147–9 points out, against Heidecker 2010.

questions that were sent to him, not because he had changed his mind about the case itself. If his intention had been to support Charles the Bald, it would be difficult to explain why he did not shy away in *De divortio* from transparent criticism of Charles, notably for his role in supporting Theutberga's brother Hubert.[83]

More important in motivating Hincmar's response was probably his very strong sense of the duties of bishops towards those committed to their pastoral charge. Marriage, in particular, was a topic that interested him; he saw it as one of the building blocks of the social order.[84] There is no reason not to believe Hincmar when he writes of his concern about the enormity of the issues involved: this was not just an abstruse question about Church law, but also about King Lothar's and Queen Theutberga's souls, and, thought Hincmar, potentially about the souls of countless other Franks too, since kings inevitably set an example.[85]

However, Hincmar should not therefore be imagined as a disinterested fighter for legality; still less as the chivalrous protector of the vulnerable Theutberga (whose potential execution he conspicuously refused to rule out).[86] Some parts of the work reflect attempts to protect his own position as archbishop, for instance in discussions of Ebbo's deposition.[87] He was especially concerned to stop others from misrepresenting his opinions, as they seem to have been doing.[88] Moreover, by producing *De divortio*, he was cementing his reputation as one of Francia's leading Church figures, someone whose opinion needed to be canvassed in such situations.[89] The dossier also made intervention in future disputes easier. His preferred tendency in intellectual and theological arguments was to overwhelm opponents with the weight of his authorities: he now had further weapons in his armoury, conveniently arranged for later use.[90] If Hincmar was pursuing anyone's agenda in writing *De divortio*, it was his own.

83 Airlie 1998: 13, 'Hincmar was not merely a party hack'. See e.g. Response 12: 207–8, where he implicitly criticises Charles for refusing to hand over the fugitive Hubert. On the political implications for Charles of *De divortio*, see above, 9–10.

84 Joye 2015: 194–200.

85 See below, 70–1.

86 See below, 55–6. On Hincmar as a noble fighter for justice and Theutberga, see e.g. Schrörs 1884: 205; Devisse 1975–76: I, 396.

87 See above, 11–12.

88 See above, 13.

89 Böhringer 2007: 275 suggests that one of the reasons that Hincmar refused to attend the Second Council of Aachen was that he would not be in charges of proceedings there!

90 Schrörs 1884: 204.

3 De divortio

Date of composition and circulation

As mentioned above, Hincmar's original spur to writing was a commission: a booklet of questions sent to him and other bishops by a group of Lotharingian clerics and laymen.[91] His answers to these questions formed the first part of *De divortio*. Around six months later, he received a second set of seven questions (this time sent individually to him, as a reaction to his previous comments), to which he responded in the second part of *De divortio*.[92]

Internal evidence provides some clues about the date of composition. The first booklet of questions reported rumours of events from late January 860, when Hincmar was visited by Bishop Adventius of Metz, so must have been written after that date.[93] It was probably sent to Hincmar together with a copy of the Booklet of Eight Chapters, a report of the Council of Aachen of 9 January.[94] The second set of questions, which Hincmar tells us was sent six months later, refers to a meeting of the Frankish kings at Koblenz in June 860, and thus must have been sent in the second half of the year.[95]

It is possible to refine these dates further. At the Council of Tusey in November 860, Hincmar responded to a question from Archbishop Gunther of Cologne about another marriage dispute, that of Engeltrude and Boso (see below, 50), by stating that Gunther could read more about the treatment of those who have confessed in another work of his; he then gives what is almost certainly a reference to the completed two-part *De divortio*.[96] The second part must therefore have been completed before November 860, so given the six-month gap between the two parts, we can narrow down the windows of each part's composition to February–April and August–October 860, respectively.

91 Preface: 92. Question 1's reference (96) to 'all you remaining bishops' suggests that the questions were circulated to a number of bishops (see Böhringer 1992: 20). Question 10: 178: some of this group questioning Hincmar had been present at the ordeal taken by Theutberga's champion in 858.

92 Appendix Introduction: 281.

93 Question 1: 96.

94 Both this document and the first series of questions have eight parts, but they should not be confused. The manuscript of *De divortio* provides the only copy of the texts from these two Aachen councils.

95 Appendix Question 5: 295.

96 *De uxore Bosonis* (MGH *Epp.* 8: 87): Gunther can find more written by Hincmar 'in the 22nd and 28th solutions of the questions, about which I have been asked

Any closer dating relies on less conclusive evidence. It is unclear whether Hincmar received the initial set of questions before or after the mid-February Second Council of Aachen. These questions do not refer specifically to the events of this council, but then neither do they refer to the First Council of Aachen, which evidently had already taken place.[97] Hincmar did quote a record of the Second Council, a text he called the *Tomus prolixus*, in the first part of *De divortio*, but these pages of the manuscript, together with those quoting another version of the First Council, the Booklet in Seven Chapters, were later additions (see below, 20), and so do not help give a precise dating.[98]

The great Hincmar scholar Heinrich Schrörs thought the events of the Second Council would have made some of the first set of questions put to Hincmar implausible or redundant. For instance, the questioners say they do not know Theutberga's offence and imply that she might give a written confession in the future: surely they must have been writing before the February council, when her offence was made public and she provided a written confession?[99]

Letha Böhringer, however, argued that the first set of questions was written after this council.[100] She saw it as implausible that the rumours reported about Adventius's trip to Rheims on 25 January 860 in Question 1 would have had time to spread before the Second Council took place.[101] In her view, Hincmar's questioners may well have deliberately remained vague, to avoid direct criticism of the procedures at the two councils and perhaps also to protect their anonymity, confining their questions to events mentioned in the Booklet of Eight Chapters.[102] She also thought that one of the questions, about the validity of a possibly coerced written confession by Theutberga,

by others', i.e. in *De divortio* Response 22 and Appendix Response 5, both of which indeed deal with Engeltrude. Hincmar's letter is addressed to a synod and refers to Gunther raising the question at an earlier session; this is presumably the Synod of Tusey in October/November 860. Though Hincmar says (81) that the question was asked 'yesterday', the length of the letter makes it possible that it is a written-up version of an oral reply by Hincmar.

97 Böhringer 1992: 22.

98 On the events, see above, 5–6. On the Booklet of Seven Chapters, see Schrörs 1884: 182, who sees it as intended for a lay audience, and Böhringer 1992: 9–10, who thinks that it may have been intended for a non-Lotharingian audience summoned to the Second Council of Aachen.

99 Schrörs 1884: 188.

100 Böhringer 1992: 21–3.

101 Question 1: 96.

102 Böhringer 1992: 21–3.

might well reflect the production of such a confession at the February council.[103]

The strongest piece of evidence that the first set of questions date from before the Second Aachen Council is their reference to the marriage dispute of Boso and Engeltrude. The questioners refer to the discussion of this case at the Council of Toul in 859, but without mentioning that it was also discussed at the Second Council of Aachen.[104] This might indeed imply that they were writing before it had taken place. Without knowing who the questioners were, however, and thus how quickly they were informed about the two councils, it is impossible to be certain on the point.

It is equally difficult to be certain how much influence Hincmar's text exerted, although he claimed it was written 'generally to all'.[105] It has been suggested that he presented the first set of his answers in June 860 at the meeting of Charles, Louis and Lothar II at Koblenz, and the completed second set at the Council of Tusey in November 860.[106] Some historians have identified echoes of *De divortio* in the Council of Aachen of 862, but none of the texts produced in 862 can be definitely linked to Hincmar's work.[107] As discussed below, only one manuscript of the text survives. Yet the fact that the second set of questions were sent specifically to him implies that his position was known to his questioners at least, and Hincmar was also able to assume that Archbishop Gunther of Cologne could access a copy. In any case, wide circulation was not the only or even the main measure of impact: being read or discussed by the right people was more important. However, *De divortio* was a topical work, and it was soon overtaken by events: the intervention of the pope from late 862, and the escalation of the situation in 863, made the work obsolete.

103 Question 10: 178. Heidecker 2010: 46 similarly sees the questions as produced after the Second Council.

104 Question 22: 270. On the case, see below, 50. In Response 22: 276, Hincmar quotes from the *Tomus prolixus* (from the Second Council) on the case.

105 Preface, 93.

106 Böhringer 1992: 26. Felten 1996: 300 points out the appropriateness of Hincmar's themes of peace and unity for the meeting at Koblenz, which aimed to reconcile Louis the German and Charles the Bald. Hincmar clearly could not have read out the whole first part there, since it was not 'suited for reading out' (Preface: 93) and would have taken several hours. On Tusey, see above, 9 and 16.

107 For varying views on the impact of *De divortio* and its possible echoes in later texts, see Schrörs 1884: 205; Devisse 1975–76: I, 386; Konecny 1976: 108, 116; Staubach 1982: 149, 175–7, 183–7; Böhringer 1992: 26–7.

The manuscript

The text translated in this book is preserved in a single ninth-century parchment manuscript, 25cm by 19cm, now in the Bibliothèque Nationale in Paris with the shelfmark ms. lat. 2866.[108] As well as the two parts of *De divortio*, the codex also contains Hincmar's letter about Boso and Engeltrude composed during the Council of Tusey in late 860.[109] It has survived the past thousand years well, but not wholly unscathed. Four folios are missing at the beginning of the book, so the text starts abruptly half-way through an opening set of chapter summaries. This means that we do not know the work's original title, if there was one. The current title was invented by modern editors, and it is unlikely that Hincmar would have used the word *divortium* ('divorce'). This word appears in the treatise only on two occasions, both in patristic quotations, and Hincmar did not think that divorce, as opposed to annulment of a marriage or simple separation, was possible (see below, 51–4).[110] A better title would be 'On the marriage of King Lothar and Queen Theutberga', but the existing one is now too hallowed by tradition to change.

What makes this somewhat scruffy manuscript especially valuable is that it appears to have been Hincmar's own copy of the treatise. Though it was physically written out by half a dozen Rheims scribes and not by Hincmar himself, the manuscript nevertheless brings us very close to the author. Close investigation of its structure and composition therefore helps tease out details about the process of the text's creation that we would otherwise not know.[111]

The first part of the manuscript to be written was that containing Hincmar's response to the first set of questions, in other words Questions and Responses 1–23, together with a conclusion and a preface (written after the main text).[112] The neatness of the text's codicological structure and organisation suggests it was copied from another (now lost) manuscript, perhaps the one sent to the men who had contacted

108 Black and white images of the original manuscript can now be freely viewed online at http://gallica.bnf.fr/ark:/12148/btv1b9078140k (accessed 12 February 2016).

109 *De uxore Bosonis*. See above, 16 n. 96.

110 Response 5: 132; Response 21: 263.

111 Most of what follows is taken from the superb introduction by Böhringer 1992 to her edition. The interested reader is directed there for further details on the manuscript, the additions, the scribal hands and Hincmar's use of his sources. See also Heidecker forthcoming on Hincmar's working methods for *De divortio*.

112 Heidecker 2010: 46–7.

Hincmar at the start of 860: presumably Hincmar would have wanted to keep a copy in his own records for later reference.[113]

As discussed above, Hincmar received a second set of questions in the late summer or autumn of 860. The first stage of the manuscript had probably already been finished by this point, since Hincmar's responses to these second questions were simply spliced in, written on fresh sheets of parchment added to the original codex. To smooth over the integration of this new material, the concluding lines of the original treatise on folio 97v (at the end of Response 23) were erased and recopied out at the end of his second set of responses (after Appendix Response 7). This splicing presumably took place in 860. The preface remained unchanged.

In addition to integrating this second set of questions and responses into his manuscript, Hincmar continued to revise the text and add new material, connecting it to the main body by means of asterisks and reference marks.[114] Some of these additions are simply corrections of errors in copying or in transcription, added in the margins. However, sixty-five additions were more substantial in scale.[115] In some of these instances, the margins of the manuscript were not big enough to accommodate the new text, so the scribes were once again obliged to insert entirely new pages into the manuscript.

These revisions were probably added not long after the two-part text was completed. The fact that Hincmar continued to revise the text so carefully and thoroughly suggests he thought it might come in useful at some point, and it is difficult to imagine him doing this after 863, when the whole context of the dispute had changed. We have included these additions in our translation, marked up with arrows (→ ←). This translation therefore represents a work that was never disseminated in this precise form, but was instead the result of Hincmar's lengthy reflection, spurred on as new sources became available.

Hincmar's sources

Hincmar's working methods for *De divortio* (as with many of his other texts) revolved around his emphasis on authoritative sources. He

113 On Hincmar's archiving practices, see Devisse 1975–76: II, 940–50.

114 Heidecker forthcoming: 'Hincmar used his own specimen of *De divortio* as an assembly of files on different subjects.'

115 Böhringer 1992: 39–65 provides a detailed discussion of the additions.