

## 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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).<sup>4</sup> 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.<sup>5</sup> 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'.<sup>6</sup>

By chance, just one of Charlemagne's sons from legitimate marriage survived to adulthood, and thus to rule over the Franks.<sup>7</sup> This son, Louis the Pious, eliminated a potential rival, his nephew Bernard, with a ruthlessness belying his epithet.<sup>8</sup> 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.<sup>9</sup>

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.

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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.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> Once Lothar II had made a peace treaty with his brothers in the second half of 856,

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'.

however, the strategic significance of this region (and hence of the marriage) was greatly diminished.<sup>16</sup>

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.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup> 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).<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> 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 Oïssel in July.

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

22 *AB* 858–59: 89–90.

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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.<sup>23</sup> 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.<sup>24</sup>

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.<sup>25</sup> 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.<sup>26</sup> 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.<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup> 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, Hildegard 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.<sup>30</sup>

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.<sup>31</sup> 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.<sup>32</sup> 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.<sup>33</sup> 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.<sup>34</sup> A second argues that his aim was to secure the succession, and that he divorced Theutberga because of her sterility.<sup>35</sup> A third view emphasises the changing political significance of Theutberga's family, specifically her brother Hubert.<sup>36</sup> 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.<sup>37</sup> 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.<sup>38</sup>

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.<sup>39</sup> 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.<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup>

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).<sup>43</sup>

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.<sup>44</sup> 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.<sup>45</sup>

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.<sup>46</sup> 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.<sup>47</sup>

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.<sup>48</sup> 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.<sup>49</sup>

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.<sup>50</sup> 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.<sup>51</sup>

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.<sup>52</sup>

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.<sup>53</sup> 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.<sup>54</sup>

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.<sup>55</sup> 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.