

Common Land in the Carolingian Central Netherlands

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Date of submission: 21 June 2021

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Course: RMA thesis

Words: 39.979

Faculty: Humanities

Study: Ancient, Medieval and Renaissance studies

Abstract

The purpose of this master thesis is to reopen the debate on the allocation of common land in early medieval Europe. More specifically, the question is asked: What evidence exists for common land in the Central Netherlands during the Carolingian period (c. 750-900 AD)? The first chapter introduces the geographical framework and investigates in which of the subregions the rights to waste- or woodland might have been shared by group(s) of peasants. The second chapter examines the historiographical debate on the emergence and existence of common land by analysing the Mark, Domanial and Scarcity theory, as being competing paradigms. In the third chapter the written sources for common land are introduced, through the analysis of opposing interpretations of the terms '*marca*', '*scara*' and '*silva communis*'. These terms have at least in the Mark theory been considered to indicate the presence of common land. In addition, in the fourth chapter, some archaeological clues for the presence or absence of common land are examined. As a result, it is suggested that the evidence for the presence of common land in the Carolingian Central Netherlands remains highly ambiguous. The existence of common land can therefore, on the basis of the available evidence, not be proven nor disproven.

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Introduction

The monk William of Jumièges, whilst writing in the year 1070 AD, looked back to 977 AD, the year in which the peasants (*rustici*) of Normandy organized themselves into communities (*conventicula*).¹ These communities are described to have self-regulated the use of woodland, most probably by dividing the exploitation-rights to its pasture and timber among themselves. However, the local count who claimed the full ownership rights to these woods felt threatened and suppressed this ‘pestiferous dissension’ among the peasantry by mutilating some members of their assemblies (*concionem*). As a result the commoners disbanded and farmed once again under the same rights and conditions as they had done before. Although this example of peasant self-governance did not prove to be enduring, to me this brief episode in recorded history seems to be a rare account of a sudden genesis of an early medieval commons.

This story fits therefore in the theme and the purpose of this master thesis, which is to reopen the debate on the existence of self-organized peasant communities in early medieval Europe. I choose to do so by studying the distribution of common land in the Central Netherlands. More specifically, the following research question is being asked: What evidence exists for common land in the Central Netherlands during the Carolingian period (*c.* 750-900 AD)? The current state of research is that we do not have clear evidence of peasant societies focussed on the self-organised exploitation of common land across the Low Countries before 1000 AD.² My first sub-questions is therefore: ‘Did common land exist at all?’

¹ J. Marx (ed.), *Gesta Normannorum Ducum* (Rouen 1914), V, II, 73-74.

² Chris Wickham, ‘Social relations, property and power around the North Sea, 500–1000’ in: Bas J. P. van Bavel and Richard W. Hoylet (eds.), *Social Relations: Property and Power* (Turnhout 2010), 25-47, at p. 40.

Inspired by new interpretations on the nature of the Carolingian economy (which will be explained in the theoretical framework), my hypothesis is that common ownership rights might have been more widespread than medievalists usually assume.³ Namely, where and whenever peasants did share land, it usually assumed that they did not own the property rights to this land. My second sub-question is therefore: To what extent was wasteland communally ‘owned’ or its natural resources only collectively ‘used’?

The reader should bear in mind that the present study is based on a large amount of secondary literature relative to a small amount of primary sources. There is simply not much written evidence to go on. In fact, the evidence consists arguably of a handful of ambiguous descriptions and a few specific terms, most importantly the terms: *marca*, (*holt*)*scara* and *silva communis*. Partly because the empirical basis for their presence is so small, the *status quaestionis* has settled on the opinion that there was no common ownership of land at all in the Central Netherlands during the Carolingian period.

It has been noticed that the concept of property-owning was not homogeneous across the Carolingian world.⁴ Therefore, this study is focussed specifically on a region of which the boundaries look a lot like that of the modern provinces of Utrecht and Gelderland (see map 2). This zone has actually been defined as two distinct regions based on the relative homogeneity of their landscape in combination with their archaeology. Together they encompass a consecutive region of some 5.000 km² in the geographical middle of the Netherlands. Hence, I have adopted the term ‘Central Netherlands’ to refer to this region.⁵

³ The historiography will be extensively treated in chapter two, but in short it can be stated that wastelands such as heather, bogland and woods, are either considered to have been private property or the property of no one in particular. In this latter option the use wasteland was in principle either open to all, or it belonged to no-one but the king and his local representatives. These situations are markedly different from a situation wherein the use of wasteland was open to a restricted but self-regulated group of people (see table 1).

⁴ Chris Wickham, ‘Rural society in Carolingian Europe’ in R. McKitterick (ed.), *The New Cambridge Medieval History* (Cambridge 1995) 2, 510-537, at p. 535.

⁵ Also in accordance with: H. A. Heidinga, *Medieval Settlement and Economy North of the Lower Rhine* (Assen/Maastricht 1987) 175.

I. Structure

This study is structured as followed. The first chapter will introduce the geographical framework of this master thesis and investigate in which of its subregions the presence of common land might have been conceivable. However, since I realized that the evidence for common land can be interpreted in multiple opposed ways, my analysis of the historiographic debate has become as important as my analysis of the primary sources. It seems to me that the scholarly ‘paradigm’ in which a medievalist operates often determines the way in which all possible pieces of evidence are approached and interpreted.

The second chapter takes therefore a wider perspective than the Carolingian Central Netherlands to analyse the historiographical debate concerning the existence of common land in the Carolingian world. As this debate deserves to be treated in a full chapter, it also clarifies why this introduction lacks a section dedicated to an historiographical discussion. The third and fourth chapter will once again zoom in to the Central Netherlands.

In the third chapter I will examine the influence of these paradigms on the interpretation of the written sources for common land. As these sources are fully introduced in this chapter, they will only be pointed out very briefly in this introduction. In the fourth chapter, the archaeological evidence for the study of common land will be cursorily scanned. This exploration of the non-written sources for common land is much more preliminary than my analysis of the written sources, mainly because I am not an archaeologist. These non-written sources will nonetheless be studied because I am convinced that an integrated study of both types of sources is the way forward to answering the research problem.

II. Definitions

A glossary of frequently used terms can be found at the end of this study. In very general terms, ‘common land’ (Dutch ‘*gemene gronden*’) can loosely be described as: ‘land used, managed or both by several individuals or groups’.⁶ I focus in this study specifically on the existence of common pasture in waste- and woodland, which would have been common lands the whole year round as opposed to seasonal forms of common pasture on arable lands. However, if I am to find such ‘common land’ in the Carolingian Central Netherlands depends of course on how ‘common land’ is legally defined in this study. As this study is meant to reopen rather than to close the debate on the nature of early medieval commons, I have opted for a relatively loose definition.

Common, public and private land

In this study ‘common land’ is a physical territory that is shared between an exclusive group of peasants, and which in this sense is to be distinguished from ‘public land’ on the one hand and ‘private land’ on the other (see table 1). Common land is something in between, as it has the appearance of a private good to externals and that of a collective good from the perspective of an insider. However, the difference with private property is that common land cannot be divided, either because it is physically impossible or too costly.⁷ The outer-boundaries of common land may or may not have been physically demarcated, but are like its inner-divisions mentally internalized by its users or owners. Finally, because there are strict rules regulating

⁶ Martina de Moor, Leigh Shaw Taylor and Paul Warde (eds.), ‘Glossary’ in: *The Management of Common Land in North West Europe, c. 1500-1850* (Turnhout 2002), 261. Of course more detailed definitions of ‘common land’ and ‘commons’ varies in the literature, which has led to a general terminological confusion. Most of these differences can however be reconciled, as they often just lay an accent on a different aspects of a commons. For example; in landscape studies ‘common land’ is characterized by its uncultivated vegetation, while in legal or economic studies its status as ‘wasteland’ is generally speaking more important.

⁷ Paraphrased from: Tine de Moor, ‘What Do We Have in Common? A Comparative Framework for Old and New Literature on the Commons’ *International Review of Social History* 57 (2012), 2, 269-290, at p. 279 and 274.

access and usage, common land cannot be considered ‘public land’ as this refers to a territory for which no property rights have been recognized.⁸

	Private land	Public land	Common land
<i>Use</i>	Open to one person or family	*Open to all	Open to a few
<i>Ownership</i>	Owned by one person or family	Owned by the state	Owned by a group
<i>Management</i>	Decided by one person or family	None or by state	Self-regulation by a group

Table 1: Overview of the main differences between the private, public and common land.

Common property rights and common usage rights

Furthermore, within common land, the juridical difference between ‘use’ and ‘ownership’ should be distinguished separately. In most day to day situations related to the exploitation of the land, this qualification may have hardly mattered as this difference mainly consists of the fact that users could be excluded from usage and asked to pay a rent to a landlord. However, whenever some conflict arose regarding the exploitation and the management of common land, this qualification started to matter greatly as owners had more and better rights to common land. Owners were self-governed and had their rules self-enforced, whereas users were governed and subject to the rule-enforcement of their landlord.⁹

Emic and etic terminology

The use of the terms *mark*, *maalschap* and *meent*, as the late medieval Dutch equivalents of common land are avoided in this study, as they are used to denote the commons from the high middle ages onwards.¹⁰ In my opinion it is anachronistic to apply these terms for the early

⁸ De Moor, ‘What Do We Have in Common?’ 277.

⁹ Anton Kos, *Van meenten tot marken: een onderzoek naar de oorsprong en ontwikkeling van de Gooise marken en de gebruiksrechten op de gemene gronden van de Gooise markegenoten (1280-1568)* (Doctoral thesis Leiden 2009), 16.

¹⁰ Peter Hoppenbrouwers, ‘The use and management of commons in the Netherlands. An overview’ in: Martina De Moor, Paul Warde and Leigh Shaw-Taylor (eds.), *The management of common land in north west Europe, c. 1500-1850* (Turnhout 2002), 87-112, at p. 92. See for a further discussion: Tine de Moor, ‘Review essay’ 277.

medieval period, until a connection between the two manifestations of common land has been proven. Still, as certain scholars have found such a connection to have been proven, the reader should be briefly introduced to the Dutch scholarly terminology for late medieval commons.¹¹

The *maalschap* was a type of commons which was used to refer specifically to common land with a dominant share of woodland vegetation. The *mark* and the *meent* are roughly speaking interchangeable counterparts, but are also argued to have had differences in their forms of organisation. Most importantly, the *meenten* were usually fully integrated into the governmental structures of a village, whereas the *marken* usually operated parallel to these local governments. Despite the fact that this dichotomy is not perfect in our primary sources, many historians have followed Peter Hoppenbrouwers in his proposal to use the term *mark* only when referring to commons that ‘were set up and initially operated separately from general local government’.¹²

To conclude, although the terms ‘commons’ and ‘common land’ are terms which do not derive from the historical situation in the Central Netherlands, there is yet no better alternative at hand to describe its equivalent in the Carolingian Central Netherlands. Therefore, I make use of the available modern English terminology. However, an integral part of this study is to find out if, and possibly how, the inhabitants of the Carolingian Central Netherlands actually called ‘common land’ themselves.

III. Methodology

One of the most well-known tools for the study of charters and property books is close reading. Although this tool belongs to the standard arsenal of any historian, its effectiveness should not be underestimated. My aim during close reading has been to ‘defamiliarize’ as much as possible

¹¹ See this thesis, in particular 2.1

¹² Hoppenbrouwers, ‘The use and management’ 92-93.

what seems to be familiar at first sight.¹³ In other words, I have tried to acknowledge as much as possible the alterity of the societies which the sources portray, rather than identifying too easily concepts which are known to have existed in later periods.

However, the available documentary sources for the Carolingian Central Netherlands are way too fragmented to review the characteristics of land usage and ownership for one settlement or local community. Therefore the silences regarding one particular community will be continually filled in by way of analogy. As a rule of the thumb, I always prefer to extrapolate synchronic (over space) rather than diachronic (over time).¹⁴ Finally, I have kept away of a method, known as *Besitzrückschreibung*, in which the original owners of land are reconstructed from analyzing younger property registers. This is, in my opinion, a too speculative method of historical inquiry in the context of the early history of common land.

IV. Source material

In Carolingian Europe, legislation around property rights developed out of Roman jurisprudence in combination with established local customs of arguably Germanic origin.¹⁵ Therefore the written *leges* of the Carolingian Central Netherlands form the starting point of this present study.¹⁶ However, the reason that in the end charters function much more prominently in this thesis is because most possible evidence for common land derives from charters. Moreover, it should not be forgotten that ‘the world of the early middle ages was one

¹³ Mayke de Jong, ‘The foreign past. Medieval historians and cultural anthropology’, *Tijdschrift voor Geschiedenis* 109 (1996), 323-339.

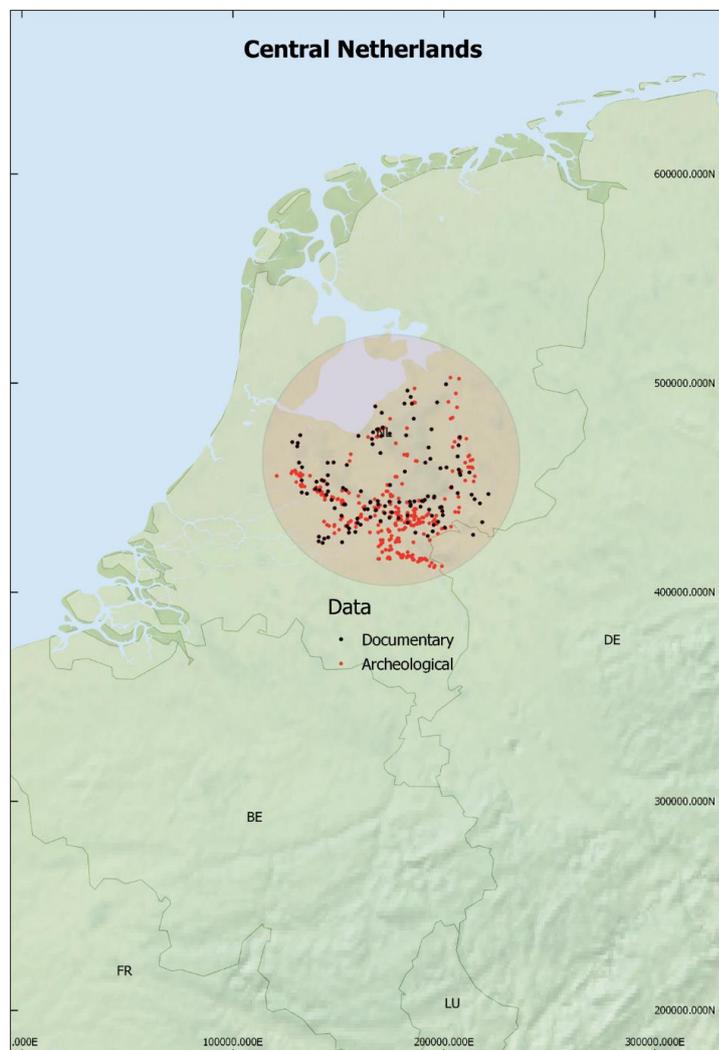
¹⁴ For example, the meaning of *marca* will be mainly interpreted by looking for its contemporary use in the German Rhineland, rather than by looking at its meaning during the late medieval period on the Veluwe. Even though these sorts of extrapolations give this master thesis a highly conjunctive character, my hope is that this procedure results in an abstracted rather than a skewed image of the human condition in the Carolingian Central Netherlands.

¹⁵ Wickham, ‘Rural society in Carolingian Europe’ 535.

¹⁶ In particular the *Lex Ribuariorum*, the *Lex Saxonum*, the *Lex Frisionum* and the *Ewa ad Amorem*. See: Peter Hoppenbrouwers, ‘Leges Nationum and Ethnic Personality of Law in Charlemagne’s Empire’ in: Jeroen Duindam, Jill Diana Harries, Caroline Humfress and Hurvitz Nimrod (eds.), *Law and Empire* (Leiden 2013), 251–274.

in which written laws or prescriptions were used as guidelines rather than as cast-iron rules that could (and should) be understood in one way only.’¹⁷

Like most early medievalists studying landholding I have therefore opted to study the law-codes of the Carolingian period in combination with the ‘practices of property-holding’ as these have for example been recorded in cartularies and Urbars.¹⁸ A full introduction to my selection of written sources is provided in chapter three. Lastly, I have also attempted to integrate the written evidence with the archaeological evidence for common land as will become clear in chapter four.



Map 1: Overview of the documentary and archaeological data which I have collected of the Carolingian Central Netherlands.

¹⁷Carine van Rhijn, ‘Charlemagne and the Government of the Frankish Countryside’ in: Jeroen Duindam, Jill Diana Harries, Caroline Humfress and Hurvitz Nimrod (eds.), *Law and Empire* (Leiden 2013), 157–176, at p. 163.

¹⁸For a good introduction to the possibilities and pitfalls of using these kinds of documents, see: Matthew Innes, *State and society in the early Middle Ages: the middle Rhine valley, 400–1000* (Cambridge 2000), 15-16, 68-69.

V. Relevance & theoretical framework

The underlying relevance of this study is twofold. My research is socially relevant because political activists (re)claim rights to public or common spaces, such as town-squares, city-parks, beaches or forest-gardens (Dutch ‘*voedselbossen*’), partly based on the argument that the existence of such rights can be traced back to the early middle ages.¹⁹ Although I can sympathize with such notions, I also believe that the hypothesis of common land in the early middle ages has yet to be proven.

The academic relevance of my argument relates to the study of environmental sustainability and social inequality in the Carolingian past. The phenomenon of ‘famine’ is at the nexus of these two themes. Other studies have already exhaustively explored the causes and the intervals of famines in Carolingian Europe.²⁰ I want to move the debate one step further by applying the theoretical framework of the Nobel-prize winning economist Amartya Sen by way of studying the allocation of common property rights.²¹

Famines did not hit communities indiscriminately. Faced by a food crisis, the allocation of bundles of commodity and property rights have in the past - no less than today - decided who lived and who did not. Amartya Sen thus developed an useful analytical framework to study this conventional wisdom. He famously formulated in his *Poverty and Famines* that most famines do not occur out of natural reasons.²²

¹⁹ Guy Standing, *Plunder of the Commons: A Manifesto for Sharing Public Wealth* (without place of publication 2019).

²⁰ N. Schroeder, ‘Observations about Climate, Farming, and Peasant Societies in Carolingian Europe’, *The Journal of European Economic History* 48 (2019) 3, 189-193. S. Ebert, ‘Starvation Under Carolingian Rule. The Famine of 779 and the *Annales Regni Francorum*’ in: D. Collet and M. Schuh (eds.), *Famines During the ‘Little Ice Age’ (1300-1800): Socionatural Entanglements in Premodern Societies* (Cham 2018), 211-230. R.P. Newfield, ‘The Contours, Frequency and Causation of Subsistence Crises in Carolingian Europe (750-950)’ in: P. B. Monclús (ed.), *Crisis Alimentarias en la Edad Media: Modelos, Explicaciones y Representaciones* (Lleida 2013), 117-172.

²¹ ‘Sen’s (1981) food entitlement theory has not yet been employed to explain subsistence crises in the late antique West. Malthus too has not played a major role in accounts of dearth in the Late Roman or Carolingian West’ See; M. Eisenberg, D. J. Patterson, J. Kreiner, E. F. Arnold and T. P. Newfield, ‘The Environmental History of the Late Antique West: a Bibliographic Essay’, *Late Antique Archaeology* 11 (2018), 1, 31-50, 50.

²² Amartya Sen, *Poverty and Famines* (Oxford 1981).

Most often, there is enough food available for everyone to survive. They rather occur because not everyone is entitled to the same amount of food. According to Sen, ‘entitlement failure’ occurs when an individual fails to acquire the commodity rights to enough food to survive.²³ Commodity rights are based on property rights. Concretely this means that in order to move the debate forward, we need to study the allocation of property rights in the Carolingian Central Netherlands.

The Tragedy of the Commons

As stated I will focus specifically on common property or common usage rights. According to the notorious ‘Tragedy of the Commons’ hypothesis of economist Garrett Hardin, free access to common pool resources can only lead to the depletion of these resources.²⁴ In his interpretation the collective exploitation of a resource (which was in his example a common pasture) is doomed to fail because as ‘a rational being, each herdsman seeks to maximize his gain.’²⁵ This behaviour would lead to excessive pressure on the land and hence to overexploitation. Consequently, the collective use or ownership of limited resources such as woodland or pasture was unsustainable.

However, others economists, Elinor Ostrom in particular, have replied that in historical reality, the collective use of common pool resources was under specific conditions very sustainable.²⁶ For the collective management of the resource to succeed sustainably, common land and its common pool resources had to be clearly demarcated and its community of users or owners had to be restricted.

²³ Sen, *Poverty and Famines* 51.

²⁴ G. Hardin, ‘The Tragedy of the Commons’, *Science*, 162 (1968) 3859, 1243- 1248.

²⁵ Hardin, ‘The Tragedy’ 1244.

²⁶ E. Ostrom, *Governing the Commons the evolution of institutions for collective action* (Cambridge 1990). It must however be noted that the disagreements between Hardin and Ostrom is often enlarged in scholarly literature. What Hardin factually described was a situation of open-access and of public property, whereas what Ostrom described was a situation of exclusive-access and common property. Hardin later thus conceded that he had abused the term commons.

The Moral economy

Humans do not fully act as the rational beings of Hardin's modelling, wherein each and everyone seeks to maximize his gain. Most famously, the historian E.P. Thompson showed that in eighteenth century Britain, farmers were not ought to raise grain prices when there was opportunity to do so, because in the 'moral economy' of pre-capitalist societies, a fair grain price existed.²⁷ This particular example of a stable grain price, but also the concept of the moral economy has recently also been adapted by early medievalists studying the Carolingian period.²⁸ Contrary to the rational being theory, humans also tend to share a part of the resources which could be theirs, simply because they think that this is fair.

The Malthusian catastrophe

On the other hand, the universal threat that every single group of people in human history faced was overexploitation of its ecosystem through outright negligence or mismanagement.²⁹ Especially in the pre-industrial age before mechanized transportation had revolutionized the transportation-costs of bulk goods and consequently expanded the opportunities of human life, the careful management of all those natural resources which were vital to human life was critical to the local survival of mankind.

Societies therefore needed to adopt resource management strategies which would prevent overexploitation and thus the doom of their community. However, a great part of the societies which succeeded in being sustainable in the short term had to face an ever-growing challenge, because their success could in the long term increase their chances of failure. When

²⁷ E. P. Thompson, 'The Moral Economy of the English Crowd in the 18th Century', *Past & Present* 50 (1971), 76-136.

²⁸ See for example: Cândido Da Silva Marcelo, 'The 'Moral Economy' under the Carolingians (End of the Eighth and Beginning of the Ninth Century)', *Médiévales* 6 (2014) 1, 159-178; as well as P. Fouracre, 'Lights, power and the moral economy of early medieval Europe', *Early Medieval Europe* 28 (2020) 3, 367-387 and J.P. Devroey, 'Food and politics' in: M. Montanari (ed.), *A Cultural History of Food in the Medieval Age* (London 2013), 73-89, 74-77.

²⁹ Maïka de Keyzer, *Inclusive Commons and the Sustainability of Peasant Communities in the Medieval Low Countries* (New York 2017), 1.

societies had become sustainable they became able to grow further. But in doing so, they also burdened the ecosystem increasingly. To deal with this fundamental problem, which has been described in many forms but is best known as the ‘Malthusian catastrophe’, preindustrial societies found various solutions.³⁰

Some societies have focused on outward expansion and the acquirement of external resources by war or trade, whereas others relied more heavily on technological innovations to increase local resource extraction.³¹ However, most if not all societies would have at least also opted for the simplest and safest option which was around, namely: the impeding of economic and demographic growth.

The Subsistence economy

In the context of this debate it should be noted that the archeologist Thomas Meier introduced a new paradigm for the way we should interpret the functioning of the Carolingian economy.³² Inspired by ethnographic studies, Meier argued that the Carolingian economy should also be regarded as a so-called ‘subsistence economy’, according to him an economic system which was not oriented towards growth (as we are used to think), but towards stability.³³ Although he still wondered to which extent this economic model could be applied to the Carolingian world at large, he recognized that at least in Southern Bavaria, all the elements had existed which are characteristic for the existence of such an economy.³⁴

³⁰ Daniel R. Curtis, *Coping with Crisis. The resilience and the vulnerability of pre-industrial settlements* (London & New York 2016).

³¹ Daniel R. Curtis, ‘Tine De Moor’s ‘Silent Revolution’. Reconsidering her theoretical framework for explaining the emergence of institutions for the collective management of resources’, *International Journal of the Commons* 7 (2013) 1, 209-229, 210. A good theoretical overview is S. Reynolds, ‘Society: hierarchy and solidarity’ in: B. Z. Kedar and M. E. Wiesner-Hanks (eds.), *The Cambridge World History: Volume 5: Expanding Webs of Exchange and Conflict, 500CE–1500CE* (Cambridge 2015), 94-115.

³² T. Meier, ‘A farewell to the market! Constructing a Carolingian subsistence economy east of the Rhine’ in J. Klápšte, P. Sommer (eds.) *Food in the Medieval Rural Environment* (Turnhout 2011), 8, 285-300

³³ ‘The basic principle of subsistence economy is its aim at stability: to have the same next year as you have this year. There is no orientation towards growth, either in wealth, demography, or in anything else. There is no idea such as added value or profit; the only point is to have enough of everything.’ Meier, ‘A farewell’ 289.

³⁴ Meier, ‘A farewell’ 289.

Between the various strategies which could impede growth belonged the exclusion of access and usage of land by certain groups of people to other weaker groups of people.³⁵ With this observation, I arrive at the theoretical argumentation behind my working hypothesis that common property rights may have been more widespread than has been accounted for in current scholarship. Namely, in the Carolingian *moral economy* peasants had a motive to share resources with their neighbours as co-owners of land, while in the Carolingian *subsistence economy* peasants had an incentive to restrict this group of co-owners. Common land may have been the perfect compromise between this motive and incentive.

VI. Summary

The main research question of this study is: What evidence exists for common land in the Carolingian Central Netherlands? The sub-questions are: Did common land exist at all? To what extent was wasteland communally owned, or its natural resources just collectively used? My hypothesis is that the distribution of common ownership rights may have been more widespread than what is nowadays usually assumed.

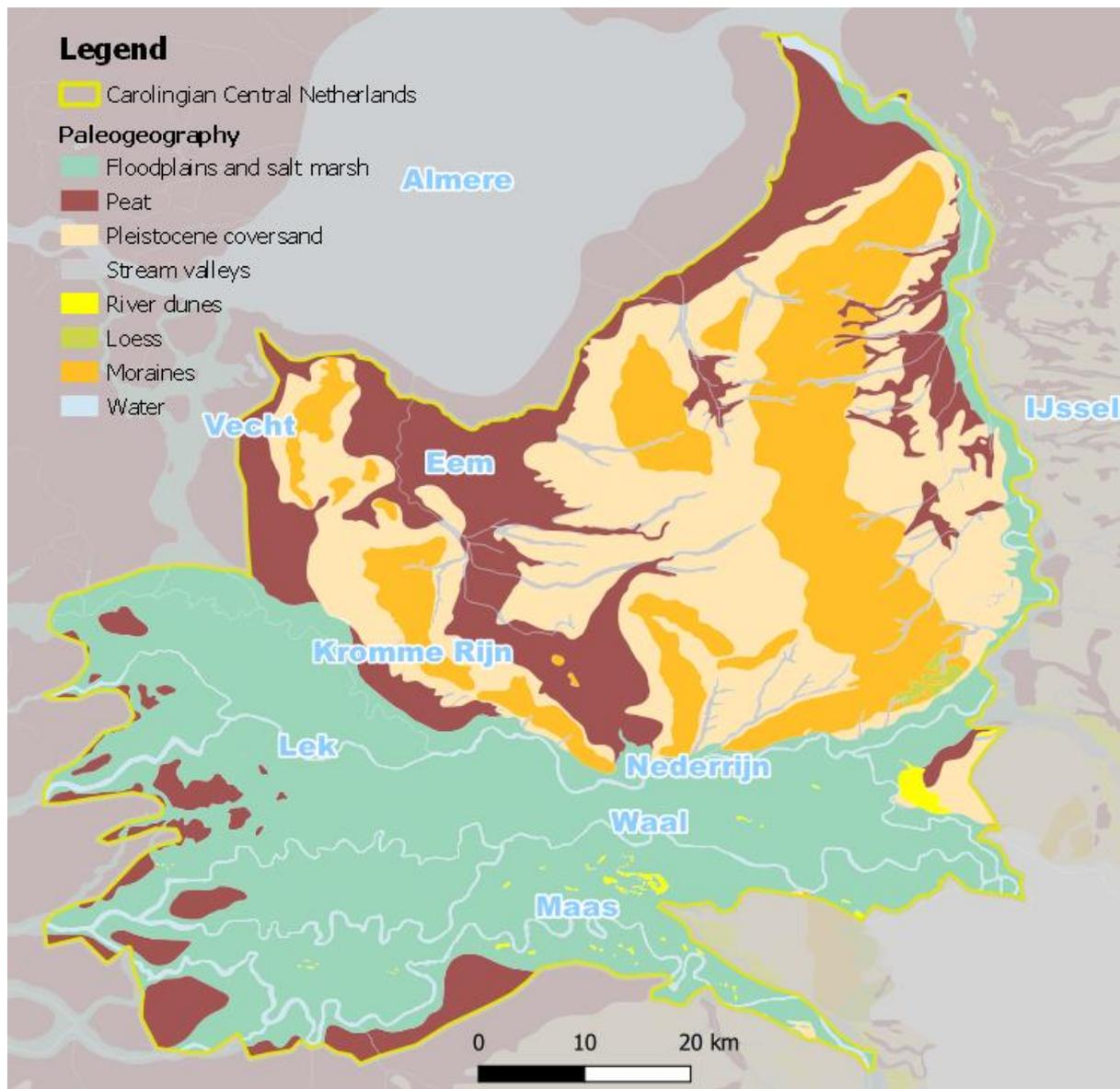
³⁵ De Keyzer, *Inclusive Commons* 1.

Chapter 1: The Carolingian Central Netherlands

The human condition in the Carolingian Central Netherlands was shaped by a variety of ecosystems and landscapes. This chapter will examine under which natural, social and political conditions property rights were allocated. The various soil-types of the Central Netherlands with their dominant vegetation, the course of the rivers, the weather formed the environment in which all social interactions occurred. Individual human agency as well as societal configurations were in more than one way constrained and shaped by the limitations and possibilities this environment offered.

But the inhabitants of the Carolingian Central Netherlands were anything but helpless against the forces of nature, for the landscape was in its turn already beginning to be shaped by human activity. To fully comprehend Carolingian society in the Central Netherlands, it is necessary to first understand the natural environment. Therefore, the geological composition, the climate and the landscape of the Central Netherlands will be discussed below, to be followed up by a brief description of its political landscape during the Carolingian period. The chapter concludes with a short introduction to the key subregions that will act as the focal points of this investigation.

1.1 Soil & climate



Map 2: Paleogeographic map of the Central Netherlands at c. 800 AD.

The geological composition of the Central Netherlands consist largely of two extremes: its sandy soils belong to one of the most infertile soils on the European continent, whereas its clay soils are one of Europe's finest.³⁶ These contrasting soils were complemented by peat soils:

³⁶ Bas van Bavel, *Manors and markets: economy and society in the Low Countries, 500-1600* (Oxford 2010), 25.

wetlands which were rich in nutrients but also in mosquitoes and other leeches. Most importantly, the peatlands were too soggy for the development of arable agriculture.

The climate of the Carolingian Central Netherlands was temperate, but from around the beginning of the eight century, the summers had begun to be generally warmer across North-Western Europe. The ninth-century ended up becoming one of the warmest periods since the beginning of the Common Era, second only to the twentieth century.³⁷ The years 741–770 AD were on average even warmer than the last three decades of the twentieth century.³⁸ Precipitation was much more varied, with the exception of the last decade of the ninth century which was disastrously dry.³⁹

This long-term drought during the later half of the eight century caused some parts of the previously inaccessible peat-lands of the Central Netherlands to drain naturally.⁴⁰ The peat-soils were attractive for human exploitation, once its thick vegetation of shrubs and bushes had been cleared and its fertile top-layer, highly suitable for arable agriculture, emerged. These lands were therefore closely monitored by peasants and lords alike. However, while the properties of the soil largely determined what type of vegetation and human exploitation was theoretically possible, other factors contributed as well.

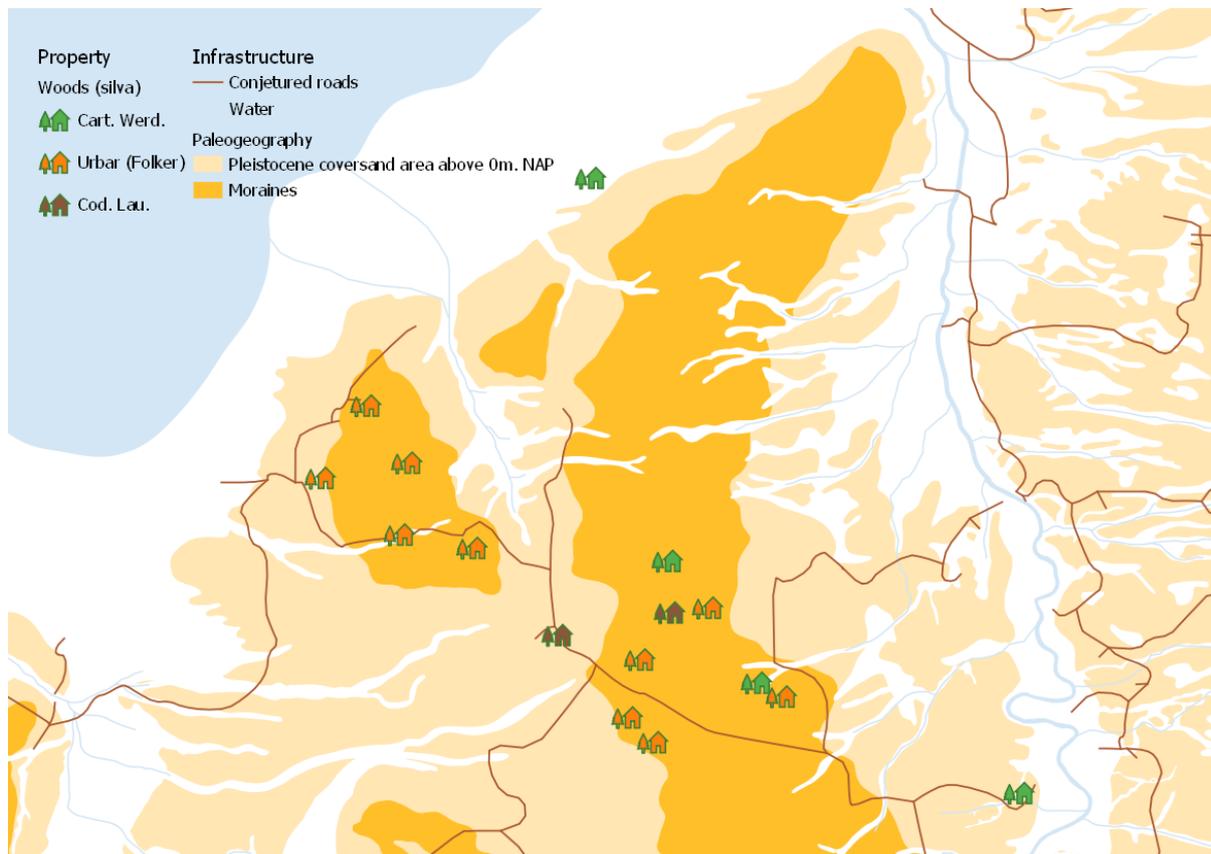
³⁷ Michael McCormick, Paul Edward Dutton and Paul A. Mayewski, 'Volcanoes and the Climate Forcing of Carolingian Europe, A.D. 750-950' *Speculum* (2007) 82, 865-895, 874.

³⁸ Ahmed Moinuddin, et al., 'Continental-scale temperature variability during the past two millennia', *Nature Geoscience* (2013) 6, 339-46.

³⁹ Ulf Büntgen et al., '2500 Years of European Climate Variability and Human Susceptibility', *Science* 331 (2011) 6017, 578- 582. D.F. C. Riechermann, D. F. C. and M. T. I. J., Gouw-Bouman, 'A review of climate reconstructions from terrestrial climate archives covering the first millennium AD in northwestern Europe', *Quaternary Research*, 91 (2019) 1, 111-131.

⁴⁰ H. A. Heidinga, 'Mens en klimaat in de droge negentiende eeuw' *Leidschrift* 21 (2006), 45-56, at p. 54-55.

1.2 Natural environment



Map 3: Bequeathed pieces of woodland (*silva*) which are mentioned in the *narratio* of charters appear to have been situated mainly across the moraines of the Veluwe.

To Adriaan Verhulst, ‘the Carolingian landscape was for a large part, on the average for more than 40 per cent and in some regions up to 80 per cent, a natural landscape, consisting mainly of woods.’⁴¹ In the Central Netherlands, the sandy soils of the Veluwe were relatively densely wooded, while the landscape on the clay soils of the riverine regions seems to have been relatively open. Its peatlands were to a large extent impregnable wetlands.

Moreover, while nowadays the Veluwe is characterized by dunes of desert sand and stretches of heath, we know that these dunes had not yet developed in the Carolingian period

⁴¹ Adriaan Verhulst, *The Carolingian Economy* (Cambridge 2002), 11.

and that heath was almost non-existent on the Veluwe during the early middle ages.⁴² How this more densely wooded Veluwe exactly looked like is difficult to ascertain. It might have consisted of one large uninterrupted closed-canopy forest, but according to a relatively new hypothesis which emphasizes the effects of animal grazing, untamed nature across the Veluwe may have looked like a ‘mosaic of groves of closed canopy woodland, open parkland and regenerating scrub.’⁴³

⁴² N.W. Willemse, J. Neefjes, and F. de Roode, *Onderzoekgebied Groot Soerel een archeologisch, landschappelijk en historisch-geografisch onderzoek* (Weesp 2008), 74. Jan Neefjes, ‘Oerbos, leefbos, heide en cultuurland Landschapsgeschiedenis van de stuwwal Ermelo-Garderen Historisch-geografische kartering van het landschap’ (2006), PDF, 74.

⁴³ F.J.G., Mitchell, ‘How open were European primeval forests? Hypothesis testing using palaeoecological data’, *Journal of Ecology* 93 (2005), 168-177.

Map 4: A map showing Carolingian settlements from contemporary written sources, based mainly on the *Toponymisch Woordenboek* of Maurits Gysseling (1960). The colour difference indicates a different provenance in the sources, see the appendix for a legenda. Aside from the fact that most settlements are located in riverine regions, it should be noted that this overlay fits almost seamlessly to the separately construed road-network of c. 800 AD developed by Rowin van Lanen (2019). The majority of localisations derive ultimately from: L. Ph. C. Van den Bergh, *Handboek der Middel-Nederlandsche Geografie naar de bronnen bewerkt* (Leiden 1852).

‘Frisia on this side of the sea’ (*Frisia citerior*) as the largest part of the Central Netherlands, seems to have been called from a late seventh century Anglo-Saxon perspective, might be best conceived of as a borderland of various sorts.⁴⁴ Within this march, rivers formed the most important ways of transportation, only to be supplemented by land-roads of purely regional significance. Not without reason was Dorestat, as the most significant settlement on the Rhine, called ‘the gateway’.⁴⁵ Here, ships from and to Anglo-Saxon England, Scandinavia and the Frankish German Rhineland converged, and connected the inhabitants of the Central Netherlands to their cultures and economies.⁴⁶

Dorestat began as the inland gate between the capricious North Sea and the first stretches of safely dry earth. During the reign of Charlemagne, however, this gate was also turned into a fiscal gate as being one of the most important toll stations of the empire.⁴⁷ It was the doorway in which ‘heathen’ wares seem to have been ‘converted’ to Christian ones, which in the case of foreign slaves and barter should be taken quite literally.⁴⁸

This brings us to the point that the Carolingian Central Netherlands was above all a cultural frontier. It was visited by all sorts of people, but it was also permanently settled by

⁴⁴ For a new interpretation of the borders of Frisa, see: G. Langen and J. A. de Mol, ‘Koning Redbad en zijn bewegingsruimte’, *De Vrije Fries* 100 (2020), 28-41.

⁴⁵ *Dorestat* derives from Celtic *Dworest-atīsi*: ‘people who live at the gateway’, see: Peter Schrijver, *Language Contact and the Origins of the Germanic Languages* (New York 2014), 154.

⁴⁶ N. L. IJssennagger, *Central because Liminal: Frisia in a Viking Age North Sea World* (Phd thesis Groningen 2017), 256.

⁴⁷ W. A. van Es, ‘Dorestad centred’ in: J. C. Besteman, J.M. Bos and H. A. Heidinga (eds.), *Medieval Archeology in the Netherlands* (Assen/Maastricht 1990), 151-182 at p. 179.

⁴⁸ Foreign currency was reminted as ‘Christian’ coins, bearing a cross with the inscription of *Christiana Religio*. See: Frans Theuvs and Arnoud-Jan Bijsterveld, ‘Early Town formation in the Northern Low Countries’ in: Alexis Wilkin, John Naylor, Derek Keene and Arnoud-Jan Bijsterveld, (eds.) *Town and Country in Medieval North Western Europe: Dynamic Interactions* (Turnhout 2015), 87-188, at p. 92.

what modern scholars call ‘Franks’, ‘Frisians’ and ‘Saxons’, as these peoples all seem to have inhabited parts of the region.⁴⁹ To which extent these peoples were biologically (un)related still remains to be determined by ancient DNA-analysis, but even such modern research techniques cannot answer the question if the inhabitants of the Carolingian Central Netherlands actually identified with one of the ethnicities mentioned above.⁵⁰ What matters most is that they were more or less able to understand each other as language differences appear not to have been insurmountable.⁵¹

To get hold of another sense of its border-position, it must be noted that Traiectum (Utrecht) appears to have been the most northward outpost of Christian culture and religious learning during the eight century.⁵² Although the Latin alphabet might arguably have only been mastered by a small minority of the inhabitants of the Central Netherlands, this skill was certainly taught at Traiectum.⁵³ The extent to which other alphabets were employed is still uncertain, but the use of the written word for administrative purposes and communicative practices might already have been more frequent than what medievalists have until recently assumed.⁵⁴ Nevertheless, in the great majority of cases in which the property rights to land

⁴⁹ W. A. van Es, ‘Friezen, Franken en Vikingen’ in: W. A. van Es and W. A. M. Hessing (eds.), *Romeinen, Friezen, Franken in het hart van Nederland* (Utrecht 1994), 82-119. Marco Mostert, ‘Boniface in Frisia’ in: Michel Aaij and Shannon Godlove (eds.), *A Companion to Boniface* (Leiden 2020), 327–354, at p. 329.

⁵⁰ DNA analysis of the human remains in the cemeteries of Wijk bij Duurstede would have been a research component in the *Dorestad vicus famosus* project. See: H. M. van der Velde, J. Dijkstra and S. Heeren, ‘On the origins of Dorestad? Habitation of the Kromme Rijn area during the Merovingian period’ in: Sarah Semple, Celia Orsini and Sian Mui (eds.), *Life on the Edge: Social, Political and Religious Frontiers in Early Medieval Europe* (Wendeburg 2017), 285-294, at p. 285.

⁵¹ Mainly to due to a large extent of Germanic-Romance bilingualism. See this thesis, chapter three.

⁵² Marco Mostert, ‘News from early medieval Utrecht – Archaeological finds challenging the historical narrative’ in: Kivilem Yavuz and Richard Broome (eds.), *Transforming the Early Medieval World: Studies in honour of Ian N. Wood* (forthcoming 2021).

⁵³ See for the hypothesis of a small minority of literates: Pierre Riché, ‘De plaats van het schrift in de Karolingische beschaving’ in: M. Mostert (ed.) *Communicatie in de Middeleeuwen. Studies over de verschriftelijking van de middeleeuwse cultuur* (Hilversum 1995), 67-74, at p. 72. For a contrasting opinion, see: Rosamond McKitterick, *The Carolingians and the written word* (Cambridge 1989). For literacy within the Central Netherlands: Marco Mostert, ‘The Early History of Written Culture in the Northern Netherlands’ in: Slávica Ranković et al. (eds.), *Along the Oral-Written Continuum: Types of Texts, Relations and their Implications* (Turnhout 2010), 449-488, at p. 459–68. And: Marco Mostert, ‘Boniface in Frisia’ 333.

⁵⁴ See for the use of the written word in correspondence among the Frisians in the Merovingian period: Mostert, ‘The Early History of Written Culture’ 460-463. And more generally in Merovingian world: Robert Flierman, ‘Gregory of Tours And the Merovingian letter’, *Journal of Medieval History* 47 (2021) 2, 119-144.

were transferred in the Carolingian Central Netherlands, this exchange was probably ratified orally and memorized, rather than written down. The standard procedure was that men of local standing witnessed important transactions. In these performances the exchange of rights to land was signified by the handover of a twig or a handful of earth rather than a written receipt of ownership.⁵⁵

Some scholars have also speculated that the boundaries of the Central Netherlands corresponded more or less with an autonomous early medieval district by the name of *Hamaland* which may have predated and outlived the Carolingian empire.⁵⁶ This interpretation probably reads too much into the evidence, but it goes to show that the region displays some facets which may be considered to resemble a relatively autonomous district, such as the presence of its own law-code.⁵⁷ I deem it better to assume that the Carolingian Central Netherlands constituted a liminal zone between Frankish, Saxon and Frisian spheres of influence, from which we might speculate that this led to a kind of melting pot of different cultural value systems.⁵⁸

It must be remarked, however, that this idea of a melting pot has most certainly not been applied by medievalists theorizing on the distribution of common land across the Central Netherlands. We will see in the next chapter that medievalists have tended to associate the Saxon inhabitants of the Carolingian Central Netherlands with common landholding, whereas Franks are associated more often with individual landholding and Frisians with public landholding.

⁵⁵ Riché, 'De plaats van het schrift' 73. Arnoud-Jan A. Bijsterveld, *Do ut des: gift giving, memoria, and conflict management in the medieval Low Countries* (Hilversum 2007) 58. Edward Roberts, 'Boundary Clauses and the Use of the Vernacular in Eastern Frankish Charters, c.750–c.900', *Historical Research* 91 (2018), 580–604, at p. 594.

⁵⁶ D. P. Blok, *De Franken in Nederland* (Bussum 1974), 36-37. See for contrasting opinions: Anne Wirtz considered Hamaland to have originally encompassed of a territory east of the Gelderse IJssel and into Germany: A. Wirtz, 'Die Geschichte Des Hamalandes', *Annalen des Historischen Vereins für den Niederrhein* 173 (1971), 7-84; and: Van Es, 'Friezen, Franken en Vikingen' 86.

⁵⁷ The *Ewa ad Amorem*. See: Hoppenbrouwers, 'Leges Nationum'.

⁵⁸ Theuws and Bijsterveld, 'Early town formation' 92.

Finally, the Central Netherlands was also a military march during the Carolingian period. During the eight century the region was fiercely fought over by Frankish, Frisian and Saxon warlords. In the ninth century, the resulting Frankish hegemony was challenged by Danes. This social upheaval is most likely the background to which we should relate the increased documentation of property rights to land by churches and monasteries, but also one of the several reasons why these institutions were endowed with the patrimonies of local aristocrats in the first place.⁵⁹

1.4 Subregions

The social and natural landscape of the Carolingian Central Netherlands was extremely diverse. Situated on the far reaches of the Carolingian world, the Central Netherlands were probably populated by different ethnicities and cultures, with different attitudes to property-holding. The most likely places for the existence of common land are areas where there existed (1) a *free peasantry*, who (2) exploited *empty wasteland*. Moreover, these areas needed to have been populated (3) relatively *densely* to provide (4) a sufficiently *large pressure on natural resources* to curb the overexploitation of these resources in a commons.

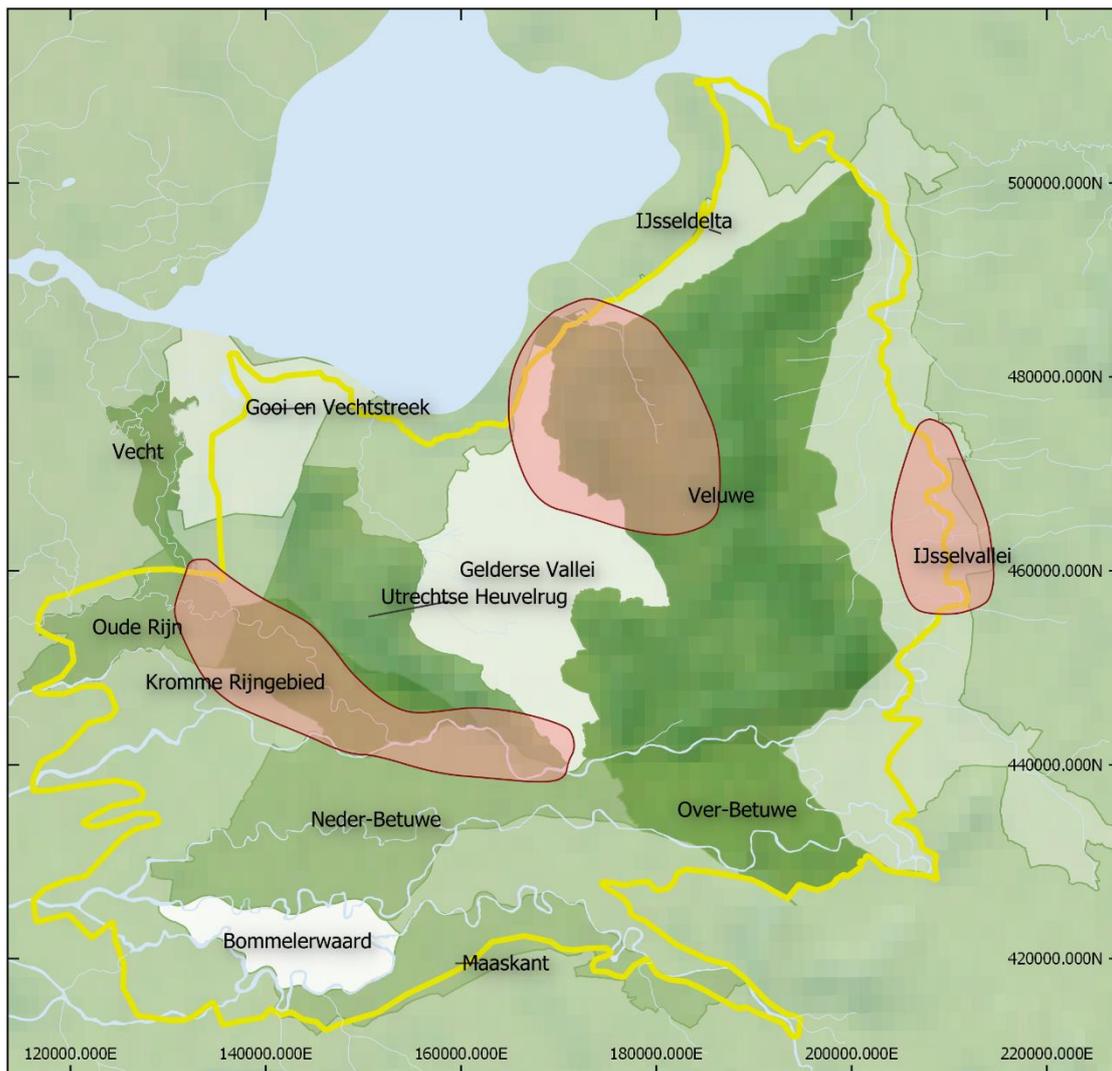
In the section below a selection of thirteen subregions of the Carolingian Central Netherlands are introduced. Based on the hypothesis above I have selected six factors, which I *a priori* presume to have had some relation to the allocation of property rights within these regions. However, when in a subregion nothing meaningful can be said concerning about one or more factors, these factors will be left out in the discussion concerning that subregion. The subregions have been classified according to the first factor (soil & fertility) as I consider the

⁵⁹ Luit van der Tuuk, 'Deense heerers in de Over-Betuwe Machtstrijd in het rivierengebied in de negende eeuw' in: *Bijdragen en mededelingen - Historisch jaarboek voor Gelderland XCIX* (2008), 7-26. Erik Goosmann, 'Aristocratic Exploitation of Ecclesiastical Property in the Ninth Century The Case of the villa Gendt', *Francia* 45 (2018) 27-59, at p. 40-42.

properties of the soil - which depend predominantly on their geological composition (clay, sand or peat) – to have been the most important. We will start by examining the fertile riverine regions with their clay soils, followed by the infertile sand regions and conclude with the peat-regions which were promising.

Factor	Theme	Question
1	<i>Soil & fertility</i>	Was the soil more suitable for arable agriculture or animal husbandry?
2	<i>Landscape & agriculture</i>	To which extent could its land be considered wasteland?
3	<i>Isolation & connectivity</i>	To which extent were its inhabitants integrated into wider economical networks?
4	<i>Continuity of occupation</i>	To which extent was the land vacant at the outset of the Carolingian period?
5	<i>Population numbers & density</i>	How many people inhabited the region in total and how were they distributed across the land?
6	<i>Social stratification:</i>	To which extent can its inhabitants be considered to have been free independent landowners?

Table 2: Factors and questions.



Map 5: A detailed view of the Central Netherlands with the sub-regions which are examined in this study. Visualized in red are those areas on which I have sought to focus in particular.

Clay regions	Sand regions	Peat regions
❖ Betuwe & Bommelerwaard	❖ Veluwe	❖ IJsseldelta
❖ Kromme Rijn	❖ Gooi & Utrechtse Heuvelrug	❖ Gelderse Vallei
❖ Oude Rijn & Vecht	❖ Rijk van Nijmegen	❖ Maaskant
❖ IJsselvallei		

Table 3: My selection of subregions of the Central Netherlands.

1.4.1 Fertile riverine regions

Betuwe & Bommelerwaard

Regular flooding and alluviation from the rivers were a bane and a blessing for the farmers of the Carolingian Betuwe. It created a highly fertile clay topsoil suitable for arable agriculture, but at the same time a constant risk of drowning their crops and flooding their homes.⁶⁰ Consequently, most fields and settlements were located on abandoned alluvial ridges for these were the highest and thus driest soils.⁶¹ Within the region the higher elevated soils of the Over-Betuwe were preferred over those of the Neder-Betuwe.⁶²

Already at the outset of the Carolingian period, in c. 750 AD, the Betuwe seems to have been relatively densely inhabited with perhaps as much as 14 persons living per square kilometre.⁶³ Especially in the Over-Betuwe numerous archaeological findings suggest a high density of agricultural settlements in the Carolingian period. Regrettably the Betuwe still lacks a good synthesis of recent archaeological excavations, which is why not much is known concerning the socio-economic position of its peasantry on the basis of the archaeology.⁶⁴ Nonetheless, it is certain that in the high and late middle ages, the region was fully brimmed with manors to the extent that at least one manor could be found in almost every settlement.⁶⁵ Occasionally, the foundation can be traced back to Carolingian royal possession, although the

⁶⁰ Rather than regular sea-inundation as scholars once believed, most researchers nowadays presume that the danger of flooding came from the peak flows of the Rhine, see: Harm Jan Pierik, and Rowin J. van Lanen, 'Roman and early-medieval habitation patterns in a delta landscape: The link between settlement elevation and landscape dynamics', *Quaternary International* 501 (2019), 379-392.

⁶¹ Van Bavel, *Manors* 39.

⁶² Pierik and Van Lanen, 'Roman and early-medieval habitation'.

⁶³ Van Bavel, *Manors* 35.

⁶⁴ H. A. Heidinga, 'From Kootwijk to Rhenen: in search of the elite in the Central Netherlands in the Early Middle Ages' in: J. C. Besteman, J.M. Bos and H. A. Heidinga (eds.), *Medieval Archeology in the Netherlands* (Assen/Maastricht 1990), 9-40, at p. 33.

⁶⁵ Jan van Doesburg, Annika Hesselink and Mieke Smit, 'Het rivierengebied in de middeleeuwen en vroegmoderne tijd' in: *Nationale Onderzoeksagenda Archeologie* (Amersfoort 2007), 1-61, at p. 9.

actual evidence is often meagre.⁶⁶ Hence it is usually assumed that there was little room for a free landowning peasantry to prosper in the Betuwe.

These relatively small strips of land could in theory have been physically demarcated by privately owned plots, but the flood plains which made up the most extensive part of the Betuwe could not. These flood plains, which were unsuitable for arable agriculture and habitation, were considered to be wastelands. Still, they could be used quite intensively for the grazing of cattle, as well as for fishing, hunting and fowling.⁶⁷ These floodplains might have been regulated as common land.⁶⁸

Kromme Rijn

The Kromme Rijn area was not just a fertile riverine region, it was the most important place within the Central Netherlands. Perhaps even ‘the central place in the northwest of the Carolingian sphere of influence’ with Wijk bij Duurstede (*vicus Dorestat*) on its one end, and Utrecht (*civitas Traiectum*) on the other.⁶⁹ *Dorestat* is estimated to have been inhabited by between 2.000 to 3.000 permanent residents, whereas *Traiectum* appears to have been inhabited by *c.* 500 residents around 800 AD.⁷⁰ But the river banks in between were also densely inhabited with almost unbroken habitation, leading some scholars have preferred to regard the Kromme Rijn region as one large ‘urban’ agglomeration.⁷¹ Land in this region may have been such a scarce commodity that even its wasteland was privately owned.

⁶⁶ Van Bavel, *Manors* 78.

⁶⁷ Van Bavel, *Manors* 129.

⁶⁸ Jeroen van der Kamp (ed.), *Langs de oever van een nieuwe rivier: RKW/LR7/LR8/LR19/LR29/LR32/LR63 Een vroegmiddeleeuwse nederzetting in Leidsche Rijn (Utrecht)* (Utrecht 2018), 19.

⁶⁹ Mostert, ‘News’ (without page numbers). W.A. van Es, W.J.H. Verwers and C. Isings, *Excavations at Dorestad 4; The Settlement on the River bank Area* (Amersfoort 2015), 384.

⁷⁰ Mostert estimates fewer than 1.000 inhabitants for Utrecht, see: Mostert, ‘News’ (without page numbers). Van Es, *Excavations at Dorestad* 387. Rowin J. van Lanen, Maurice T. M. de Kleijn, Marjolein T. I. J. Gouw-Bouman and Harm Jan Pierik, ‘Exploring Roman and early-medieval habitation of the Rhine–Meuse delta: modelling large-scale demographic changes and corresponding land-use impact’, *Netherlands Journal of Geosciences* 97 (2018), 45-68, at p. 55.

⁷¹ Van Es, ‘Friezen, Franken en Vikingen’ 100. Even at the moment of writing a new large settlement was unearthed, see: Gemeente Utrecht, ‘Bijzondere vroegmiddeleeuwse vondsten in Utrecht-Oost’, (news bulletin 01-03-21), <https://www.utrecht.nl/nieuws/nieuwsbericht-gemeente-utrecht/bijzondere-vroegmiddeleeuwse-vondsten-in-utrecht-oost/>.

Dorestad might have been developed during the Merovingian period from the bottom up, only to have been burdened by aristocratic and royal intervention in the Carolingian period.⁷² Accordingly, the eighth century saw the emergence of a ‘domanial landscape’ in the Kromme Rijn region.⁷³ Half of the Kromme Rijn region was suitable for arable agriculture, and the majority of these lands was actually converted into arable fields.⁷⁴ We know for a fact that during the Carolingian period, St. Martin’s Church in Utrecht became a dominant landowner in the region.⁷⁵ Its rights and possession were enlarged by the king as well as by local benefactors, which is how we also come to know that royal domains had lain intermingled with aristocratic holdings.⁷⁶ However, despite the large endowments to the bishop of Utrecht, the king most probably remained the dominant landowner in the region.

Finally, it must be mentioned that Viking raids and Danish rule in the Kromme Rijn and Betuwe during the middle decades of the ninth century might have done much to turn existing property allocations upside down.⁷⁷ For example, in 857 AD the Kromme Rijn region had been plundered so many times that the bishop of Utrecht fled the Central Netherlands and the episcopal see was moved in 858 AD to Odiliënberg c. 150 kilometre to the southeast of Utrecht, on the eastern bank of the Meuse.⁷⁸ When his successor returned to the Central Netherlands and moved the seat to Deventer shortly after 885 AD, the ownership of church

⁷² Tom Saunders, ‘Early mediaeval emporia and the tributary social function’ in: David Hill and Robert Cowie (eds), *Wics: the Early Mediaeval Trading Centres of Northern Europe* (Sheffield 2001), 7-13.

⁷³ Van der Velde et al., ‘On the Origins of Dorestad’ 289-292. Van Es, *Excavations at Dorestad 379*. W. A. van Es, and W.J.H. Verwers, ‘Early Medieval settlements along the Rhine: precursors and contemporaries of Dorestad’, *Journal of Archaeology in the Low Countries* 2 (2010) 5-39, at p. 19. Cornelis Dekker, *Het Kromme Rijngebied in de middeleeuwen: een institutioneel-geografische studie* (Utrecht 1983), 33-39.

⁷⁴ L. I. Kooistra, ‘Landbouw in een onbedijkt rivierengebied’ in: W. A. van Es and W. A. M. Hessing (eds.), *Romeinen, Friezen, Franken in het hart van Nederland* (Utrecht 1994), 126-129, at p. 126.

⁷⁵ Van Es, ‘Friezen, Franken en Vikingen’ 111.

⁷⁶ Van Es, ‘Friezen, Franken en Vikingen’ 111.

⁷⁷ Tuuk, ‘Deense heerers’ 26.

⁷⁸ Kaj van Vliet, *In kringen van Kanunniken. Munsters en kapittels in het bisdom Utrecht 695-1227* (Zutphen 2002), 131-137.

lands across the riverine regions of the Central Netherlands had to be accredited by a list of old endowments.⁷⁹

Oude Rijn & Vecht

The Oude Rijn & Vecht regions were in their geological composition similar to the Kromme Rijn region, but appear to have been less populated. The Western part of the Oude Rijn region even appears to have been completely uninhabited.⁸⁰ Nevertheless, control over these regions was highly sought after by Charles Martel and his successors for their strategic location.⁸¹

Their importance diminished when the Gelderse IJssel became navigable, somewhere in eight or ninth centuries, opening up a new route between the Rhine and the Almere. Prior to this, whoever controlled the Vecht and the Oude Rijn, controlled much of all ingoing and outgoing vessels from and to the German Rhineland. Consequently, both regions appear to have been highly militarized at the start of the Carolingian period.⁸² Moreover, the royal prefect at Utrecht, the *urbis praefecti*, probably collected tolls in the Vecht region before these rights were transferred to the bishop of Utrecht.⁸³

The inhabitants of the Vecht and Oude Rijn region were perhaps as much fowlers and fishers as farmers, despite the fact that most of the land suitable for arable agriculture was already brought under cultivation.⁸⁴ Stockbreeding also played an important role across the

⁷⁹ Known as the *Commemoratio de rebus sancti Martini Traiectensis ecclesie*. See for a discussion: Van Vliet, *In kringen* 155.

⁸⁰ Archaeological finds from West of the city of Utrecht dating to the ninth century are few and far in between. According to Van Dinter even ‘no rural settlements are known dating to the 9th and 10th centuries.’ Perhaps this was due to increased flooding frequency. A.W.A. Kemme, *A different perspective on the Carolingian economy: Material culture and the role of rural communities in exchange systems of the eighth and ninth centuries* (Phd thesis Leiden 2021), 50. Van der Kamp, *Langs de oever* 165. Marieke van Dinter, Kim M. Cohen, Wim Z. Hoek, Esther Stouthamer, Esther Jansma and Hans Middelkoop, ‘Late Holocene lowland fluvial archives and geoarchaeology: Utrecht’s case study of Rhine river abandonment under Roman and Medieval settlement’, *Quaternary Science Reviews* 166 (2017) 227-265.

⁸¹ Bernard S. Bachrach, *Charlemagne’s Early Campaigns (768–777) A Diplomatic and Military Analysis* (Leiden and Boston 2013), 611. Luit van der Tuuk and Anton Cruysheer, ‘De Utrechtse Vecht Levensader in de vroege middeleeuwen’ *Jaarboekje van het Oudheidkundig Genootschap Niftarlake* (2013), 102- 151, at p. 109-110.

⁸² Bachrach, *Charlemagne’s* 612, 621.

⁸³ Van der Tuuk and Cruysheer, ‘De Utrechtse Vecht’ 117.

⁸⁴ Van der Tuuk and Cruysheer, *De Utrechtse Vecht* 106, 128.

extensive floodplains of the Oude Rijn and the Vecht. At least in the Vecht region, the bishop of Utrecht and a number of Frisian clans seem to have owned domanial estate complexes of a still to be ascertained nature.⁸⁵ However, whether these estates were organized to the model of the bipartite estate or the classical estate is still unknown.⁸⁶ The difference shall be explained in the next chapter.

IJsselvallei

The IJsselvallei was, in an agricultural sense, also comparable to the Betuwe. The flood plains were used for pasture and the higher ridges were used for arable agriculture.⁸⁷ However, social-politically the region differed markedly from the Betuwe. Whereas the Betuwe, belonged to the Frankish sphere of influence, the IJsselvallei had belonged much more firmly to the Saxon sphere of influence during the Merovingian period. Consequently, it also stayed for much longer a contested area of military dispute and missionary activities during the eight century.⁸⁸

The region's population density is uncertain. What is certain, however, is that the economic and cultural centre of gravity changed during the ninth century from the Kromme Rijn region to the IJsselvallei. Part of the reason for this seems to be that from *c.* 800 AD onwards the IJssel functioned as a navigable branch of the Rhine.⁸⁹ Consequently, a large elongated riverbank trading-settlement (*portus*) of *c.* 28 hectare, similar in layout to Dorestat emerged at Deventer.⁹⁰ In the second half of the ninth century the layout of this settlement changed to the more nucleated appearance which the inner-city of Deventer still has to this day.

⁸⁵ A.L.P., Buitelaar and Guus J. Borger, 'Landscape development and settlement history of the Vecht area (722–1122)', *Netherlands Journal of Geosciences* 94 (2015), 4, 375–385, 381.

⁸⁶ A. L. P. Buitelaar, *De Stichtse ministerialiteit en de ontginningen in de Utrechtse Vechtstreek* (Hilversum 1993), 386.

⁸⁷ Sander Jansen, *Op zoek naar vroegmiddeleeuws Deventer* (Master scriptie Groningen 2015), 88.

⁸⁸ Van Vliet, *In Kringen* 101-103, 110-111. Roy van Beek, *Reliëf in Tijd en Ruimte: Interdisciplinair onderzoek naar bewoning en landschap van Oost-Nederland tussen vroege prehistorie en middeleeuwen* (Phd thesis Wageningen 2009), 95.

⁸⁹ See for a full discussion: Michael Groothedde, *Een vorstelijke palts te Zutphen? Macht en prestige op en rond het plein 's-Gravenhof van de Karolingische tijd tot aan de stadsrechtverlening* (Phd thesis Leiden 2013), 49-53.

⁹⁰ Groothedde, *Een vorstelijke palts* 54.

This transformation could be linked to a stark increase in mercantile and artisanal activity. It has been speculated that this fundamental transformation was initiated by the king, who, as the owner of a *praedium* within the settlement, may have intended to turn Deventer into worthy replacement for Dorestat.⁹¹

1.4.2 Infertile sand regions

Veluwe

The Veluwe was much less suitable for arable agriculture than the riverine regions of the Carolingian Central Netherlands. It was therefore also one of the least densely inhabited regions, with perhaps an average of only one person per square kilometre inhabiting its large tracts of grassland and oak-beech forests.⁹² It should be noted that this population figure is probably distorted. Not only has the Veluwe for the largest part never been archaeologically surveyed, its population seems to have been concentrated in to so-called ‘islands of habitation’ located on the flanks of the moraines, as these were the most suitable soils for arable agriculture.⁹³ Nevertheless, for the largest part the Veluwe was an empty wasteland.

Although the region was not well suited for arable agriculture, it compensated this in its sizeable quantities of forest-resources, such as timber and pasture. Most of all, there are numerous archaeological indications that the Veluwe was one of the largest export regions of iron-ore in the Carolingian world.⁹⁴ Despite the lack of any reference to this iron-industry in

⁹¹ Emile Mittendorff, ‘De vroege stadsonwikkeling van Deventer: van een organisch gegroeide nederzetting naar een planmatig aangelegde handelsplaats’ in: Aly Dijkstra-Kuit (ed.), *Op zoek naar Hamaland. Archeologische resten uit de 9de tot en met de 11de eeuw in Zuid Salland, IJsselstreek en Oost-Veluwe* (without placename 2020), 20-37, at p. 31-33.

⁹² Van Bavel, *Manors* 36.

⁹³ Depopulation across the Veluwe during the fourth and fifth century is argued to have resulted in a landscape largely derived from any human habitation. Heidinga, ‘From Kootwijk to Rhenen’ 12.

⁹⁴ C. Joosten, *Technology of early historical iron production in the Netherlands* (Phd thesis Amsterdam 2004).

the documentary source material, the hierarchical organization of this industry by supra-regional aristocrats has usually been conjectured.⁹⁵

Ecclesiastical institutions, such as the abbey of Werden, could likewise have played a central role in the organization of the production and dissemination of iron as they became to own large tracts of woodland across the Veluwe. It could be argued that the production of iron was not suitable or deemed important enough to be worth mentioning in their written documents, similar to why perhaps also the large-scale production of ceramics at the Vorgebirge has remained undocumented.⁹⁶ Alternatively, the lack of documentation might also indicate that the production and demand of bulk goods such as iron and ceramics was bottom-up organized by peasants.⁹⁷ However, since the publication of stimulating new studies, speculation on the organization of the iron industry across the Veluwe must be taken with caution.⁹⁸

In fact, we need to take a step back from speculation and once more reconsider the actual evidence for the presence of a large-scale iron-industry across the Veluwe, as perhaps too many factors concerning this iron industry are still unknown or uncertain.⁹⁹ For example, across the Veluwe roughly three-thousand mining pits have been discovered as well as vast amounts of iron slagheaps. However, only a handful of the many thousand essential charcoal-pits have thus far been identified. Moreover, the radiocarbon dating of several charcoal samples does not match the dating which was previously provided through pottery typologies.¹⁰⁰

⁹⁵ Heidinga argued that the woods across the Veluwe belonged to a few wealthy landowners (such as Folker and Gerward), and considered that aristocrats must have dominated the iron industry and directed its revenues into their own pockets. Heidinga, 'From Kootwijk to Rhenen' 10.. Goosmann, 'Aristocratic Exploitation' 59.

⁹⁶ Kemme, *A different perspective* 305-306.

⁹⁷ Which is a more general hypothesis of archaeologist Frans Theuvs. For the appliance of this argument on the iron industry of the Veluwe, see: Kemme, *A different perspective* 325

⁹⁸ N.F.H.H., Vossen (ed.), *Goud van oud Apeldoornse bouwstenen voor de Veluwse archeologie* (Apeldoorn 2014), 89-105.

⁹⁹ Janneke Zuyderwyk, 'De vroegmiddeleeuwse ijzerwinning op de Veluwe Ingrediënten voor een nieuw verhaal' in: Aly Dijkstra-Kuit (ed.), *Op zoek naar Hamaland. Archeologische resten uit de 9de tot en met de 11de eeuw in Zuid Salland, IJsselstreek en Oost-Veluwe* (without placename 2020), 94-109.

¹⁰⁰ Zuyderwyk, 'De vroegmiddeleeuwse ijzerwinning' 104.

This brings us to the problem that the iron industry of the Veluwe still lacks an accurate and precise period of occurrence. At the current state of research, the previously held assumption of a production peak during the Carolingian period can not longer be warranted. Therefore, it is too early to even try to formulate a penultimate answer in regard to the total iron-output for the Carolingian period, let aside to say something about its undocumented organization.

Gooi & Utrechtse Heuvelrug

The Gooi & the Utrechtse Heuvelrug largely consisted of grass- and woodland comparable to the Veluwe, but they lacked deposits of rattle-stone and thus iron-ore.¹⁰¹ For the most part, these regions seem to have been even more sparsely populated than the Veluwe, with an estimated total population of a couple of hundred inhabitants at maximum.¹⁰² A notable exception is a large concentration of population around Rhenen (*Hreni*), which had been one of the few points where one could cross the Gelderse Vallei. At Oud-Leusden a settlement with lots of ‘Frankish’ material culture was uncovered, which seems to have belonged to a royal domanial estate to which the rights in 777 AD were transferred to the bishop of Utrecht.¹⁰³

Rijk van Nijmegen

For the largest part, the Rijk van Nijmegen was like the Veluwe covered with great tracts of uninhabited royal forests, which the king and his retainers used foremost as a hunting ground. The exploitation of the woodlands of the Rijk van Nijmegen differed from the Veluwe to the extent that it lacked deposits of iron-ore, but also that it housed a royal palace, which appears to have been both a royal residence and a centre of royal administration. Hence the woods of

¹⁰¹ Chris de Bont, *Vergeten land. ontginning, bewoning en waterbeheer in de westnederlandse veengebieden (800-1350)* (Phd thesis Wageningen 2008), 588.

¹⁰² Anton Cruysheer and Luit van der Tuuk, ‘Het Gooi in de vroege middeleeuwen: geschiedenis, nederzettingen en vondsten’, *Archeologica Naerdincklant* 3 (2015), 2-20, at p. 8. De Bont, *Vergeten land* 374.

¹⁰³ W. J. van Tent, *Archeologische kroniek van de provincie Utrecht over de jaren 1980-1984* (Utrecht 1988) 26-29.

the Rijk van Nijmegen seem to have been far more tightly controlled by the fisc who had probably already appointed an officer (*forestarius*) to oversee its management.¹⁰⁴ Still, on the fringes of this royal woodland, at places such as Beek, aristocrats owned estates of their own.¹⁰⁵ How these possessions related to the royal domains is, however, still uncertain.¹⁰⁶

1.4.3 Promising peat regions

IJsseldelta

At the outset of the Carolingian period the IJsseldelta was virtually unpopulated, but the warm and dry climate regime of the eight century opened the region up for human colonization.¹⁰⁷ Farmers who converted its boglands into arable fields could expect to be rewarded with high crop yields as the top-layer of these soils was extremely fertile.¹⁰⁸ Farm-animals were driven into the boglands to pasture and hence assist in the process of land-clearance.

Regrettably, it is not known whether this colonization and land-reclamation process was organized on the initiative of independent peasant landowners or top-down by the direction of some landlord.¹⁰⁹ At least, any evidence for royal initiative is notably lacking. Although human presence in the Carolingian IJsseldelta is relatively well documented, the source material is difficult to interpret. Also the archaeological evidence is too meagre to conclude anything with regard to its social stratification.¹¹⁰ Nevertheless, it is at least certain that a number

¹⁰⁴ Van Bavel, *Manors* 48. Jaap Buis, *Historia Forestis, Nederlandse bosgeschiedenis* (Utrecht 1985), 223-225.

¹⁰⁵ P. Leupen, 'De Karolingische villa Beek en de stamvader van de Bosoniden', *BMGN - Low Countries Historical Review* 92 (1997) 3, 373-393.

¹⁰⁶ Kemme, *A different perspective* 548.

¹⁰⁷ Van Bavel, *Manors* 35.

¹⁰⁸ Chris de Bont, 'Friezen in het veen? Enige opmerkingen over de herkomst en taal van de middeleeuwse ontginners van de venen in Noord-Holland', *It Beaken* 74 (2012) 1/2, 33-62, 58.

¹⁰⁹ For speculation that it was led by an international elite see: C. van Heel, *De vroegste middeleeuwse kerkgeschiedenis van Hattem* (Kouwenhoven 1999).

¹¹⁰ The only concentration of archaeological findings datable to early medieval period are in Doornspijk-Wessinge.

of wealthy landowning families who owned properties in other regions of the Central Netherlands, also owned properties in the IJsseldelta.¹¹¹

Gelderse Vallei

The Gelderse Vallei remained an impregnable marshland without human habitation in the Carolingian period. Whether, and in which way, this region was nonetheless exploited by peasants living across the adjacent sandy soils is highly uncertain.¹¹² Some have assumed that the region was exploited as pasture-grounds during the winter, but there is no evidence which supports this hypothesis.¹¹³ At least parts of its landscape were depicted as a wasteland (*saltus*) and royal land (*forestes*).¹¹⁴ It seems to have formed a magnificent obstacle in any land transport between the eastern and western half of the Central Netherlands.¹¹⁵ However, it might be speculated that because Frankish military personnel stationed in the Kromme Rijn region were required to respond quickly to incursions in Saxony, that the bishop of Utrecht established a passage at modern-day Amersfoort.¹¹⁶

In this context it must be mentioned that the ownership or overlordship of the Gelderse Vallei was complicated by the fact that from 843 AD onwards, the region functioned as the natural border between the Eastern-kingdom of Louis the German and the Middle-kingdom of Lothar I.¹¹⁷ This might have created an opportunity for independent peasant landowners to step in and claim ownership of these wastelands themselves.¹¹⁸

¹¹¹ Goosmann, 'Aristocratic exploitation' 43. See also chapter 3 of the thesis.

¹¹² H.B.G. Scholte Lubberink, L.J. Keunen and N.W. Willemse, *Op het kruispunt van de vier windstreken Synthese Oogst voor Malta onderzoek de Gelderse Vallei (Utrechts-Gelders zandgebied)* (Amersfoort 2015), 172-174.

¹¹³ H.A. Heidinga, *Medieval Settlement and Economy North of the Lower Rhine* (Assen/Maastricht 1987), 90-91.

¹¹⁴ Jan H. M. Hilhorst and Jos G. M. Hilhorst, *Soest, Hees en De Birkt: van de achtste tot de zeventiende eeuw* (Hilversum 2001), 18-21.

¹¹⁵ Heidinga, *Medieval Settlement*, 81, 218.

¹¹⁶ Bachrach, *Charlemagne's 611-622*, in particular p. 617.

¹¹⁷ Van Vliet, *In kringen* 135.

¹¹⁸ G. H. P. Dirx, *...ende men sal van een erve ende goedt niet meer dan een trop schaepe holden... Historische begrazing van gemeenschappelijke weidegronden in Gelderland en Overijssel* (Wageningen 1997), 25, 41.

Maaskant

Much uncertainty surrounds the early medieval archaeology of the western part of Maaskant as most habitation traces seem to have been swept away by regular river-avulsion and the disastrous flooding of the Maas during the eight and tenth century.¹¹⁹ Moreover, also the interpretation of its documented early medieval history has proven to be quite complicated. Nevertheless, despite the fact that there is little archaeological evidence of early medieval habitation in and around this part of Maaskant, it is usually supposed that all the habitable ridges of the riverine part of Maaskant were fully settled during the Carolingian period.¹²⁰

Agricultural production within settlements on, or bordering peatland, as Engelen, Rosmalen and Maren might have been hierarchically organized as it seems to have been directed from lordly domains at Oud-Empel (*Empele*), which appears to have been the central settlement in Maaskant.¹²¹ However, in the ninth century also a group of *homines franci* appear as landowners within these settlements.¹²²

The position of these *homines franci* within Frankish society is still being debated. Some have recognized in them a specific class of nobleman, whereas others consider them a class of farmer-soldiers sent by royal decree to colonize wasteland.¹²³ Recently, Peter Hoppenbrouwers characterized them as ‘militarized Frankish colonists of substantial social

¹¹⁹ D. van Diepen, *De bodemgesteldheid van de Maaskant* (*S- Gravenhage 1952), 124 and map 5. W.J.H. Verwers, *North Brabant in Roman and Early Medieval Times* (Amersfoort 1998), 290.

¹²⁰ J.R. Mooren, E. Schorn, A.C. van de Venn and J.R. Treling, ‘S-Hertoghenbosch Oud Empel Inventariserend Veldonderzoek door middel van proefsleuven (S-Hertoghenbosch 2007), 8. It has also been suggested that the sandy soils of Brabant were during the Merovingian period colonized by Frankish colonists from the riverine parts of Maaskant, which would imply that these parts of Maaskant were densely populated. Richard Jansen and Johan van Kampen, ‘Een Merovingisch grafveld in Deursen? Vroegmiddeleeuwse vindplaatsen in de Maaskant’ in: Richard Jansen (ed.), *De archeologische schatkamer Maaskant Bewoning van het Noordoost-Brabantse riviereengebied tussen 3000 v. en 1500 n.Chr.* (Leiden 2014), 287-299, 296.

¹²¹ It appears to have been settled already in the seventh century as at the end of this century a royal *uilla* at *Empla* was endowed to the abbey of St. Crespian. In the ninth century the *uilla Empele* reappears in the documentary sources as site of Christian worship but also as the likely centre of an elaborate domanical estate complex. See this thesis: chapter 3.3.3.

¹²² See chapter 3.3.3.

¹²³ J. F. Niermeyer, ‘Het Midden-Nederlands Riviereengebied in de Frankische Tijd op grond van de *Ewa quae se ad Amorem habet*’, *Tijdschrift voor geschiedenis* 66 (1953), 145-169.

status who had settled in a semi-warzone or in recently conquered territory'.¹²⁴ If this is the case, it is a good possibility that these colonists divided the exploitation rights to their newly settled land among themselves.

1.5 Summary

It appears that some areas were largely uninhabited at the start of the Carolingian period, whereas other regions were already densely inhabited. For example, the soil of the riverine regions was highly fertile and therefore densely populated. These peoples were also closely connected to the cultures and economies outside the Central Netherlands, which may have resulted in a local peasantry that had been more servile than the peasants farming the sanded regions. It appears that most suitable tracts of lands were already taken into cultivation in the riverine areas, which probably only left the waterlogged floodplains to have remained undivided.

By contrast great stretches of undivided grass- and woodland could be found across the much less fertile sandy regions, which were also less populated. However, the peasant use of these lands as pasture might have in some places have clashed with the aristocratic interests in these lands as (exclusive) hunting-domains. Regardless, the tracts of wasteland that lay in the proximity of the islands of habitation may potentially have functioned as common land across throughout these sandy regions. The fringes of peat regions, lastly, which bordered on densely populated clusters of human habitation, whether in the riverine or the sandy regions, emerge most of all as likely sites for the presence of common land in the Carolingian period.

¹²⁴ Hoppenbrouwers, 'Leges Nationum' 260.

Chapter 2: Paradigms

It is commonly believed that in spite of the existence of other types of landownership, the basic method to acquire possession of land in Carolingian Europe was through inheritance.¹²⁵ But at an hypothetical moment, a long time ago, when the Central Netherlands was still completely uninhabited, families could freely settle down at various places in the landscapes.¹²⁶ Where they did, they build farmsteads and cleared and transformed a small percentage of the land into arable fields which were further developed by their children. This part of the land was appropriated as private property. Another much more extensive part of the landscape, the wasteland, was exploited as pasture. It is generally presumed that common property or common usage rights on these wastelands ‘developed as an extension of the rights in the cultivable land of members of family groups who saw themselves as descended from certain specific ‘original’ families’.¹²⁷ In other words, it is believed that free peasants who had inherited cultivated fields could also claim a part of the uncultivated land.

In reality, the above picture might be more of a justification of the unequal distribution of common property rights than an actual explanation of their emergence. For when, and under which circumstances, these rights were actually asserted has been fiercely debated. In this chapter, the three most prevalent explanations for the emergence of common land in North-West continental Europe are reviewed (see table 2).¹²⁸ I call these ‘paradigms’ as they are

¹²⁵ Innes, *State and society* 72.

¹²⁶ Heidinga, *Medieval Settlement* 157.

¹²⁷ B. Derouet, ‘Territoire et parenté: pour une mise de perspective de la communauté rurale et des formes de reproduction familiale’, *Annales* 50 (1995) 3, 645–86. Heidinga, *Medieval Settlement* 153, 157, 175.

¹²⁸ In accordance with: Gerrit Westerink, *Doornspijk en Elburg Rechthistorisch onderzoek naar de ontwikkeling van de gebruikes-en eigendomsrechten op de grond* (Assen 1961), 2-3. Kos, *Van meenten* (2010), 22-23. As opposed to: De Moor, ‘What Do We Have in Common?’ 279.

generalizing explanations that have often been advanced by different authors in somewhat different variations.¹²⁹

	Paradigms		
	Mark theory	Domanial theory	Scarcity theory
Rights to wasteland			
< 750 AD	Common property rights	Common usage rights	Open to all
750 – 900 AD <i>Carolingian period</i>	Common property rights	Common usage rights	Open to all
900 – 1200 AD	Common property rights	Common usage rights / common property rights	Open to all / common property rights
1200 AD >	Common property rights	Common property rights	Common property rights
Reason and context for emergence	Developing from a primitive state of communalism.	From the collapse of manorialism.	Population pressure resulting in scarcity
Argument based on	Mentality	Social organization	Demographics

Table 3: Overview of the paradigms.

¹²⁹ It must be noted that the Silent revolution theory is not discussed in this study because it is wholly focused on the late medieval period. Daniel R. Curtis issued a good and critical discussion of the theory, see: Curtis, ‘Tine De Moor’s ‘Silent Revolution’.

Paradigms

Notable advocates

Mark theory

Author (publication date)

Möser (1768)

Grimm (1828)

Von Maurer (1854)

Emile de Laveleye (1878)

Blok (1923)

Oosthuizen (2011)



Justus Möser (1720-1794)



George von Maurer (1790-1872)

Domanial theory

Fustel de Coulanges (1891)

Martens van Sevenhoven (1925)

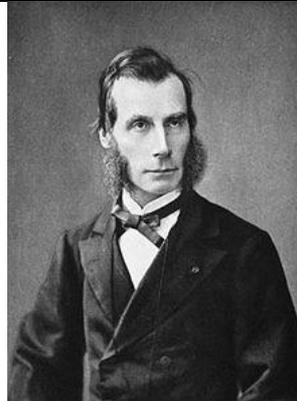
Dopsch (1937)

Kuchenbuch (1978)

Wickham (1989)

Dekker (2003)

Kos (2009)



Numa Denis Fustel de Coulanges
(1830-1889)



Alfons Dopsch (1868-1953)

Scarcity theory

Slicher (1964)

Buis (1985)

Wickham (2002)

Brakensiek (2002)

Van Bavel (2010)



Bernard Hendrik Slicher van Bath
(1910-2004)



Bas van Bavel (1964)

Table 4: In *cursive* are authors who have also written specifically on the emergence of common land in the Central Netherlands.

2.1 The Mark theory

The Mark theory is named after the many commons of eighteenth-century Westphalia which were called ‘*mark*’. According to the advocates of the theory, these commons were relics of a distant past. However, it is only on this point, and the assumption that commons existed in the early middle ages, that the advocates of the Mark theory have agreed since the theory was developed by Justus Möser (1720-1794).¹³⁰ Therefore, before I move on to an abstracted discussion of the Mark theory, it is vital to understand that within the Mark theory three different flavours/strands can be distinguished, based on what was supposed to be the dominant form of landownership in the early middle ages. These different sub-theories can be linked to the political standpoints of their advocates.

In what I call the ‘conservatist advancement’ of the Mark theory, by the public administrator Justus Möser, the overall prosperity of commoners, as opposed to the many destitute peasants without rights to common land in eighteenth century Westphalia, was caused by the manner in which the commons had been designed as institutions. Möser imagined that rights to common land had in the distant past been partitioned comparable to how shares were marketed in a modern stock-company. The shareholders, or commoners, could be ‘full, half, or quarter participants’ in conformance with their individual investment in the collective enterprise.¹³¹ Such an investment was measured by the extent of individually owned land that a person brought in. It was therefore, according to Möser, justified and only natural, that shares to common land were unequal and that those without landed property would also not own a share of the Mark – regardless whether it was eighth or eighteenth century Westphalia.

¹³⁰ Justus Möser, *Osnabrückische Geschichte* (Osnabrück 1768), 19. Jonathan Knudsen, *Justus Möser and the German Enlightenment* (Cambridge 1986).

¹³¹ On cit. in: Knudsen, *Justus Möser* 159.

However, whereas Möser's formulation of the Mark theory presupposed that common land had co-existed with private landownership from the beginning, the liberalist and nationalistic branches of the Mark theory reasoned that all land had originally been owned in common during the early middle ages. This idea was based on a notion that, at the beginning of Western civilization, all property had been owned in common.¹³² Individual possession as opposed to collective possession was regarded as a successive state of being in Western civilization.¹³³ From a nineteenth-century supremacist mindset, this was demonstrated by the fact that in Western Europe land had largely been, or was becoming, privatized, whereas in tribal Africa, rural India or Russia collective property holding was (still) dominant/the norm.¹³⁴

According to the liberalist branch of the Mark theory, as for example advocated by the economist Emile de Laveleye, who focused on the history of common land as an model of economic exploitation, commons were 'outdated'.¹³⁵ In his view, the commons, which he regarded as conservatist groups of landowners, did not embrace the full agricultural potential of land. More problematically still, the commons opposed entrepreneurship by imposing constraining regulations on their members. These regulations were created to prevent overexploitation of common pool resources, which was achieved by imposing a continued state of under-exploitation. As the short-term profits were therefore anything but optimal, the liberalist advancement of the Mark theory came to the conclusion that all common land had to be enclosed for capitalism, perceived as 'modernity', to truly take off.¹³⁶

However, within the nationalistic branch of the Mark theory, as for example represented by the legal historian George von Maurer, the assumption that the commons had withstood

¹³² This notion can be traced back to Greek mythological conceptions of human history. See: Alexander Callander Murray, *Germanic Kinship Structure. Studies in Law and Society in Antiquity and the Early Middle Ages* (Toronto 1983), 40.

¹³³ Discussed by: Tine de Moor, *The Dilemma of the Commoners Understanding the Use of Common-Pool Resources in Long-Term Perspective* (Cambridge 2015), 20-21. Numa Dennis Fustel De Coulanges, *The Origin of Property in Land* (London 1891), 24.

¹³⁴ On the 'comparative method' of Emile de Laveleye, see: Fustel De Coulanges, *The Origin of Property* 74.

¹³⁵ Emile de Laveleye, *Primitive Property* (London 1878).

¹³⁶ De Moor, 'A framework' 279. De Moor, *The Dilemma of the Commoners* 20.

evolution was actually regarded positively.¹³⁷ It demonstrated the ancient roots of the newly formed German nation. Whereas the liberalist advancement of the Mark theory believed that common landholding had been universal among primitive peoples, the nationalistic advancement of the theory argued that the commons, as institutions of free farmer-warriors capable of democratic decision-making, had been a typically German custom.¹³⁸ In a nutshell, the nationalistic advancement of the Mark theory implied that the French nation descended from a society of slaves, whereas the Germans descended from a society of free warriors.

It was mostly this nationalistic advancement of the Mark theory that Friedrich Engels and Karl Marx ended up using to substantiate their socialist philosophy that common property had been ‘the social foundation from which all Teutonic races started in history’.¹³⁹ In their view of history as ‘class struggles’, the development of Western civilization had only led to greater inequality between people and to greater poverty for the masses. The communalist state of being in the early middle ages, as propagated by the Mark theory, was something to once again aspire for.¹⁴⁰

2.1.1 Date of emergence

The commons as associations of respectable landowners were deemed to be the oldest and hence most venerate and purest form of rural government by Justus Möser, the first advocate of the Mark theory.¹⁴¹ Möser did not put a date on their creation, but in subsequent versions of the Mark theory, the emergence of these associations was traced back to a golden epoch of

¹³⁷ George von Maurer, *Einleitung zur Geschichte der Mark-, Hof-, Dorf- und Stadt-Verfassung und der öffentlichen Gewalt* (München 1854), 93.

¹³⁸ Hans Hummer, *Visions of Kinship in Medieval Europe* (Oxford 2018), 38.

¹³⁸ Innes, *State and society* 71

¹³⁹ Cit. in: Friedrich Engels, *Manifesto of the Communist Party*, (London 1888), 12. Tomonaga Tairako, ‘A turning point in Marx’s theory on pre-capitalist societies Marx’s excerpt notebooks on Maurer in Mega IV/18’, *Hitotsubashi Journal of Social Studies* 47 (2016) 1, 1-10.

¹⁴⁰ Engels, *Manifesto* 26.

¹⁴¹ Knudsen, *Justus Möser* 155, 169-170.

Germanic democracy and communalism starting in proto-history, to be concluded by the rule of Liouis the Pious in the year 813 AD.¹⁴²

2.1.2 Reason for emergence

According to the conservatist branch of the Mark theory, peasants would group together in commons to organize their common defense, or when they were faced with the inability to fence off wasteland in private blocks of property.¹⁴³ However, the liberalist and nationalistic advancement of the Mark theory saw this differently. In their starkly romanticized image of the still semi-nomadic Germanic peoples of Antiquity, peasants were believed to have met regularly at an assembly called the *thing*. At the *thing* free peasants applied law, but also collectively decided on the question who could farm where and for how long, as all non movable goods, such as land, could not be owned individually nor be alienated, but solely be owned by collective appropriation.¹⁴⁴

Land would have belonged to the tribe and their dead ancestors, rather than to any individual.¹⁴⁵ From this mentality, which lacked any notion of private landownership (in contrast to the conceptual and legal framework of the Romans), the commons would have emerged when tribes decided to settle down more permanently.¹⁴⁶ Within the Central Netherlands, the Herenhul on the Veluwe and the *Tafalbergon* in the Gooi have been speculated

¹⁴² Möser, *Osnabrückische Geschichte* 19. P.J. Blok, *Geschiedenis van het Nederlandsche volk. Deel 1* (Leiden 1923), 18.

¹⁴³ Dopsch, *The Economic* 6. On the difficulty to demarcate privately owned blocs of woodland see: J. Kreiner, 'Pigs in the Flesh and Fisc: An Early Medieval Ecology', *Past and Present* (2017) 236, 3-42, at 36.

¹⁴⁴ Frode Iversen, 'Concilium and Pagus Revisiting the Early Germanic Thing System of Northern Europe', *Journal of the North Atlantic* special volume 5 (2013), 5-17. Martina de Moor, 'Common land and common rights in Flanders' in: Martina De Moor, Leigh Shaw Taylor and Paul Warde (eds.), *The Management of Common Land in vNorth West Europe, c. 1500-1850* (Turnhout 2002), 113-142, at 122.

¹⁴⁵ Helena Hamerow, *Early Medieval Settlements The Archaeology of Rural Communities in Northwest Europe 400-900* (Oxford 2003), 129, 146.

¹⁴⁶ Blok, *Geschiedenis* 37-38.

to have functioned as locations where *thing* assemblies took place during the early middle ages.¹⁴⁷

2.1.3 Type of rights

Within the conservatist branch of the Mark theory, the rights to cultivatable lands were divided among the families who first established a farmstead. But also intangible rights to undemarcated tracts of wasteland were attached to the farmsteads of these original families, and were over time transmitted to those who physically occupied these farmsteads, usually the offspring of the original settlers. With the passage of time, however, and through the influx of immigrants and the expansion of the original settler-families, new farmsteads had to be constructed which also required rights of exploitation within the wasteland. In such circumstances it was collectively decided by the heirs of the pioneers, who assembled in the commons whether the inhabitants of these new farmsteads received full shares, or smaller shares, or even no shares at all.¹⁴⁸

Although the heirs of the earliest settler-families had as possessors of the ‘original’ farmsteads, better claims on the wasteland than others, their rights to the wasteland were still limited and had to be shared with their co-heirs. As a result, over generations one individual’s stake to the wasteland became smaller and smaller. Customs of partible inheritance in which the land had to be divided equally among heirs, thus led to the sub-division of land and could therefore be considered to be a root cause of inequality among commoners in later periods.¹⁴⁹

Another explanation, advanced by the liberalist and nationalistic branch, to the apparent inequality among Carolingian peasants was found in the biased nature in the available

¹⁴⁷ Cruysheer and an der Tuuk, ‘Het Gooi in de vroege middeleeuwen’ 3. Ciska van der Genugten, ‘Herenhul, rechtspraak in het Engelandersholt’ in: Martijn Boosten, Masja Parlevliet and Nathalie Vossen (eds.), *Het Verborgene Verleden van het Engelandersholt* (Apeldoorn 2016), 86-92, at 89. Heidinga, *Medieval Settlement* 156.

¹⁴⁸ Möser on cit. in Knudsen, *Justus Möser* 159.

¹⁴⁹ Innes, *State and society* 81.

documentation. It was namely believed that ownership of land among the Franks was based on three categories: Roman civil law, royal decree and finally Germanic ‘folk law’.¹⁵⁰ With the Frankish conquest of Saxony, the Frankish elite for whom charters were written, had illicitly appropriated the lands of the Saxons. It was not this conquest itself which was unlawful, but the application of Roman civil law rather than Germanic folk law.¹⁵¹ Moreover, also the *ius eremi*, which was the royal monopoly on wasteland based on Roman precedent, would not have been in accordance with Germanic folk law in which this land belonged to all.¹⁵²

2.1.4 Sources

The Mark theory is based on three types of historical documents from distinct periods in history. Their heavily romanticized image of the ancient Germanic peoples is based on the ‘ethnographic’ descriptions of the social and agricultural customs of the Germanic peoples by ancient Roman authors.¹⁵³ Thus the first known descriptions of common property-holding were considered to be found in the depiction of land-rotation among the Germanics by Julius Caesar.¹⁵⁴ But also the *agri* which were mentioned in Tacitus’ *Germania*, were interpreted by Von Maurer as effectively meaning ‘public land’ (*agri publicus*).¹⁵⁵

Secondly, the history of the commons was from the thirteenth century onwards relatively well-documented in the bylaws of the commons (the *markeboeken*). However, any such documentation for the early medieval period is missing, although the early medieval law-codes supposed revealed some rare traces of a supposed shift of communal property-holding

¹⁵⁰ Lapsely, ‘The origin of property’ 336.

¹⁵¹ Blok, *Geschiedenis* 38.

¹⁵² Lapsely, ‘The origin of property’ 433. Blok, *Geschiedenis* 69, 75. But see also: Hoppenbrouwers, ‘The use and management’ 94. Bavel, *Manors* 56. Kos, *Van meenten tot marken* 44.

¹⁵³ See for an excellent critical discussion of these sources: Dopsch, *The Economic* 30-47.

¹⁵⁴ Julius Caesar, *Commentarii de Bello Gallico*, book VI, chapter 22.

¹⁵⁵ Publius Tacitus, *Germania* chapter 26. Georg von Maurer, *Einleitung zur Geschichte der Mark-, Hof-, Dorf- und Stadt-Verfassung und der öffentlichen Gewalt* (München 1854), 6, 84, 93.

to private possession.¹⁵⁶ But in chapter three it will be argued that the ‘key-stone’ in the Mark theory was the term *marca* which was found within Carolingian cartularies and Urbars.

2.2 The Domanial theory

The first thing that should be noted in regard to the Domanial theory, is that this theory was developed out of criticism on the Mark theory. More precisely, the Domanial theory was in the nineteenth century developed by French historians as an ‘antidote’ to the nationalistic theories and the ahistorical methodology of the German advocates of the Mark theory.¹⁵⁷ The most crucial difference between both paradigms is that in the Mark theory, especially its socialist version, it was supposed that early medieval society had consisted of an overwhelmingly free landowning peasantry, whereas in the Domanial theory it was imagined that the peasantry had for the largest part been submissive.¹⁵⁸

2.2.1 Date of emergence

The Domanial theory dates the emergence of the commons in Northwest continental Europe is to the termination of the ‘manorial estate system’ (which was a specific structure of landownership which will be described in the next paragraph). Although the moment when the manorial estate system disappeared varied geographically, in the Central Netherlands the period from the ninth century to the thirteenth century is usually considered to have been its heydays.¹⁵⁹ The emergence of the commons as groups of peasant with property rights to wasteland, is therefore generally dated to the thirteenth century. In recent years historian Anton

¹⁵⁶ Gaillard Thomas Lapsley, ‘The Origin of Property in Land’, *The American Historical Review* 8 (1903) 3, 426- 448, at p. 435.

¹⁵⁷ On the methodological dispute, see chapter 4 or: CH. V. Langlois and CH. Seignobos, *Introduction to the Study of History* (New York 1904), 141-144.

¹⁵⁸ Numa Dennis Fustel De Coulanges, *The Origin of Property in Land* (London 1891), 9-11.

¹⁵⁹ B. H. Slicher van Bath, ‘De hoven op de Veluwe’ in: J.F. Niermeijer (ed.), *Ceres en Clio. Zeven variaties op het thema landbouwgeschiedenis* (Wageningen 1964), 167-204, at p. 202.

Kos, for instance, denied the existence of commons in the Gooi in the Carolingian period for this reason.¹⁶⁰

2.2.2 Reason for emergence

According to the Domanial theory, the commons developed as a direct result of the dissolution of the early medieval domanial structure with the lordly manor (*curtis, praedium, mansus dominicales*) as the economic centre of exploitation.¹⁶¹ In the original formulation of the theory by Fustel de Coulanges, the domanial structure of the bipartite estate originated directly from pre-existing Roman villa estates as slave-plantations, but the modern consensus is that these are distinct phenomena.¹⁶²

During the Merovingian period the manorial system came into being in the area between the rivers Loire and Rhine, but in the Central Netherlands it seems to have largely emerged when Frankish landownership expanded in the eighth and ninth century.¹⁶³ Although in reality the manorial system may be a very marginal phenomenon in the Carolingian Central Netherlands, perhaps even at the peak of its existence, the advocates of the Domanial theory insisted that, generally speaking, the commons arose from manorial estates.¹⁶⁴

While the domanial structure is a scholarly model that includes diverse practices, in essence all bipartite estates are considered to have consisted of a lordly manor in combination

¹⁶⁰ Kos, *Van meenten tot marken* 44-49, 72.

¹⁶¹ Numa Dennis Fustel De Coulanges, *The Origin of Property in Land* (London 1891). Dopsch, *The Economic foundation* 155-156.

¹⁶² See for criticism on the theory by Fustel de Coulanges: Peter Sarris, 'The Origins of the Manorial Economy: New Insights from Late Antiquity', *The English Historical Review* 119 (2004) 481, 279-311, 280. For the modern consensus: Jean-Pierre Devroey and Alexis Wilkin, 'Early Medieval land structures and their possible impact on regional economic development within the Low Countries. A comment on 'manors' in Bas van Bavel's Manors and markets', *Tijdschrift voor sociale en economische geschiedenis* 8 (2011) 2, 90-102, at p. 94-97. See for an explanation of the absence of the 'contaminated' scholarship of Fustel de Coulanges in the Annales school which continues in the work of contemporary medievalists such as Chris Wickham: Ian Wood, 'Review article: landscapes compared', *Early Medieval Europe* 15 (2007) 2, 223-237, at p. 229.

¹⁶³ Bavel, *Manors* 61.

¹⁶⁴ Verhulst, *The Carolingian Economy* 34, 55-56.

with smaller depended homesteads (*casa, huba, houa, mansus*).¹⁶⁵ These holdings were inhabited by tenants (*liti*) who farmed their own fields, but who like the unfree servants (*mancipia, servi*) of the manor, were also required to work on the demesne (the fields of their lord). It is believed that the tenants also received usage-rights to the wasteland such as the right to pasture (*pascuarium*) in the *silva communis*, in exchange for a varying combination of payments and services to the lord of the manor.¹⁶⁶

Namely, when the descendants of Carolingian tenants rose up in conflict with their landlord, as exemplified by the revolt of peasants in Normandy described by William of Jumièges, customary usage-rights were asserted bottom-up as common property rights, thus creating a commons.¹⁶⁷ Alternatively, when a territorial lord attempted to obtain confirmation of his exclusive property rights to the wastelands, but failed for some reason, the attempt could provoke a ‘formalization’ of peasant communities who owned customary rights to pastureland to organize themselves as institutions with legal rights.¹⁶⁸ Not only were these new commoners no longer obliged to pay or render services to their lord, the management of the wasteland was now also ‘written down, confirmed, reviewed from time to time, and, most importantly, self-enforced’ by the commoners themselves, rather than the landlord.¹⁶⁹

2.2.3 Type of rights

The advocates of the Domanial theory believe that all land during the Carolingian period was claimed and privately owned by someone. Free persons (*ingenuiles*) had unrestricted access to,

¹⁶⁵ Verhulst, *The Carolingian Economy* 33. Innes, *State and Society* 79

¹⁶⁶ Ludolf Kuchenbuch, *Bäuerliche Gesellschaft und Klosterherrschaft im 9. Jahrhundert: Studien zur Sozialstruktur d. Familia d. Abtei Prüm* (Wiesbaden 1978), 72. De Moor, ‘Common land’ 122.

¹⁶⁷ For the creation of a local sense of community under the pressure of kings or lords, see: Innes, *State and Society* 106.

¹⁶⁸ See the introduction for the revolt of peasants in Normandy described by William of Jumièges. On this movement: Dirx, *...ende men sal* 27. Van Bavel, *Manors* 99. But it can also be connected to Reynolds idea of rise of literacy as a form of record and social surveillance in the high middle ages. See: Susan Reynolds, *Kingdoms and communities in Western Europe 900-1300* (Oxford 1984).

¹⁶⁹ de Moor, *The Dilemma of the Commoners* 25-26.

and owned an unlimited share of, the wasteland, as they were the owners of independent farmsteads to which these rights were attached. This simultaneous unlimited possession of the wasteland by free proprietors was only possible because the wasteland could still provide for everyone's needs due to low population densities.¹⁷⁰

However, unfree peasants owned only limited rights or no rights at all to the wasteland. Tenants attached to a domain owned only usage-rights, as the lord of the manor fully owned the property rights (Germ. *Obereigentum*) to wasteland.¹⁷¹ Usage-rights were attached to their farmstead, rather than its occupant(s).

2.2.4 Sources

The Domanial theory is derived mainly on descriptions and inventories of domanial estates within polyptychs and Urbars of the large landowning abbeys of the Carolingian world. In these sources the material possessions and obligations of the abbey's tenants (the *familia*) were meticulously recorded, making them ideal sources to study the functioning of domains.¹⁷² However, the majority of these sources are concerned with possessions in the region between the Loire and the Rhine, which is why they are less ideal for the study of domanial estates in the Carolingian Central Netherlands.

With regard to the Carolingian Central Netherlands, the existence of domains has often been assumed on the presence of specific terms that might denote a manor (*mansus dominicales*, *curtes*, possibly *villa*), and that occur with some regularity in ninth century charters. However, the earliest concrete evidence for the presence of domanial estates within the Central Netherlands postdates the ninth century. For example, the oldest document to actually record manorial rights and peasant dues on the Veluwe has been dated to the mid

¹⁷⁰ See the argument of the Scarcity theory in the next section.

¹⁷¹ Kuchenbuch, *Bäuerliche Gesellschaft* 72.

¹⁷² Verhulst, *The Carolingian Economy* 38.

twelfth century.¹⁷³ A notable exception to this rule, is the late-ninth century *Urbar of Priim* which has recorded the rights and possessions of domanial estates at Voorst, Wadenoijen and Arnhem.¹⁷⁴

2.3 The Scarcity theory

The Scarcity theory was initiated by economic historian Bernhard Slicher van Bath, to function complementary to the Domanial theory.¹⁷⁵ The Domanial theory had shown the Martk theory to be defective, but could itself not be used to explain the emergence of common land quite everywhere. The crucial problem identified by Slicher van Bath was that a great number of late medieval commons could not be traced back to former collectives of tenants. In other words, the former presence of manorial estates could not always be demonstrated in regions, such as the Veluwe, where many commons emerged.¹⁷⁶ Therefore, Slicher van Bath formulated a theory in which the formation of commons took place independently from the dissolution of the manorial system. His theory was based upon the extent to which natural resources had been scarce.

However, more recently economic historian Bas van Bavel brought the manorial system back into the equation when he offered a hypothesis capable of explaining the unequal spatial distribution of commons in the late medieval ages. Van Bavel considered the shortage of land to have been the primary motive for the emergence of commons, but connects their endurance to the productive assertion of village communities *vis-à-vis* the power of territorial lords.¹⁷⁷ Across sandy soils, which were sparsely populated, sturdy village-communities could arise as peasants had been used to govern themselves. However, in grain-producing areas, such as the

¹⁷³ Slicher van Bath, 'De hoven op de Veluwe' 180.

¹⁷⁴ I. Schwab (ed.), *Das Priimer Urbar* ((Düsseldorf 1983).

¹⁷⁵ B. H. Slicher van Bath, 'Studiën betreffende de agrarische geschiedenis van de Veluwe in de Middeleeuwen', *A.A.G. Bijdragen* 11 (1964), 13-78.

¹⁷⁶ Slicher van Bath, 'Studiën betreffende' 66-68.

¹⁷⁷ Van Bavel, *Manors* 93-94.

riverine regions of the Central Netherlands, manorial landownership had been such a dominant element that village-communities were less capable of asserting themselves as commons.¹⁷⁸

2.3.1 Date of emergence

In agreement with the Domanial theory, Slicher van Bath dated the emergence of commons to the high or late middle ages.¹⁷⁹ Although the precise moment of the emergence of individual commons depended on the local rate of population growth, he assumed that the Central Netherlands would have been too sparsely populated for any commons to have developed during the early middle ages.¹⁸⁰ Across for example the Veluwe, the scarcity of natural resources would only have become increasingly imminent by a rapidly rising rural population in the twelfth and thirteenth century.¹⁸¹ Recently, also Chris Wickham, a specialist in the field of early medieval socio-economic history, denied the existence of common land across the early medieval North Sea cultures on the basis that population pressure was so low that land was not scarce, so therefore there would have been no need to limit or divide wasteland, hence: ‘much of the extensive woodland, open pasture, and coastal salt marsh of the North Sea area was yet unassigned, and communities had virtually unrestrained access to it.’¹⁸²

¹⁷⁸ Van Bavel, *Manors* 93-94.

¹⁷⁹ Slicher van Bath, ‘Studiën betreffende’ 55.

¹⁸⁰ B. H. Slicher van Bath, *Een samenleving onder spanning: geschiedenis van het platteland in Overijssel* (Utrecht 1977), 22.

¹⁸¹ Slicher van Bath, ‘Studiën betreffende’ 55.

¹⁸² Wickham, ‘Social relations’ 40-41.

2.3.2 Reason for emergence

According to the Scarcity theory the commons emerged in response to a ‘Malthusian trap’.¹⁸³

Historian Stefan Brakensiek captured the idea of the Scarcity theory nicely:

‘As long as grazing and wood were in abundant supply there was no need for property rights at all. Each person took what they wanted. It was only during the High Middle Ages, owing to population pressure, that resources grew increasingly scarce in north-western Germany, so that institutional regulation became inevitable. The creation of so-called *Markgenossenschaften* was the usual solution.’¹⁸⁴

The commons thus claimed a monopoly of both ownership and usage rights over districts of wasteland, which were enforced in opposition to immigrants and rival commons. Though the commons were new creations, the members of these commons generally asserted their rights based on ancestral claims of their land.¹⁸⁵

2.3.3 Type of rights

In contrast to the Domanial theory the proponents of the Scarcity theory dismiss the distinction between common property rights and common usage rights. They argue that such a distinction would have been meaningless in nearly all situations.¹⁸⁶ The allocation of property rights only mattered when interests in the exploitation or management of wasteland collided. In the Carolingian period this would have been rarely the case.¹⁸⁷ When resources were abundant and the interests of peasants and lords largely coincided, the allocation of rights on these lands would have hardly mattered. Peasants were at most obliged to pay a small rent in return for the use of ‘their’ wastelands, mainly to recognize the overlordship of some landlord. Therefore,

¹⁸³ See the theoretical framework in the introduction for an explanation of the Malthusian trap.

¹⁸⁴ Stefan Brakensiek, ‘The management of common land in north western Germany’ in: De Moor, Martina, Leigh Shaw Taylor and Paul Warde (eds.), *The Management of Common Land in North West Europe, c. 1500-1850* (Turnhout 2002), 225-246, at p. 232.

¹⁸⁵ Brakensiek, ‘The management’ 233.

¹⁸⁶ Slicher van Bath, ‘Studiën betreffende’ 50.

¹⁸⁷ De Moor, ‘Common land’ 122.

until land became scarce and rights had to be asserted to ensure continuance in the use of the wasteland, these lands were in effect public space.

2.3.4 Sources

The sources on which the Scarcity theory has been based are early medieval charters and late medieval revenue registers, mark-regulations and village bylaws. These sources have been scrutinized for every single appearance of the terms: *marca*, *mark(e)* and *meent*, or some description of a commons.¹⁸⁸ By cataloguing these appearances per century Slicher dated the breakthrough of the commons to the thirteenth century. However, it must be noted that Slicher interpreted all the appearances of the term *marca* before the year 1200 AD *a priori* as ‘neighbourhoods’ (*buurtschappen*).¹⁸⁹

2.4 Summary

Only the Mark theory acknowledges the existence of common land in the Carolingian period. Its advocates argued that the emergence of the commons was caused by colonization conform Germanic traditions in which the ownership rights to wasteland were divided among the owners of the newly constructed farmsteads. The land itself remained, in contrast to arable fields, physically undivided. The Domanial theory dismissed this idea of peasants owning full ownership rights to waste- or woodland by asserting that most peasants had not been free landowners during the Carolingian period. Instead, its advocates considered the commons to have risen up from the ashes of the manorial system in and around the thirteenth century. At that time, the customary usage rights of tenants were converted to full common ownership rights. The Domanial theory thus maintained that the Carolingian predecessors of these tenants only owned limited usage rights to the forests that were privately owned by their lords.

¹⁸⁸ Slicher van Bath, ‘Studiën betreffende’ 53-55.

¹⁸⁹ Slicher van Bath, ‘Studiën betreffende’ 50.

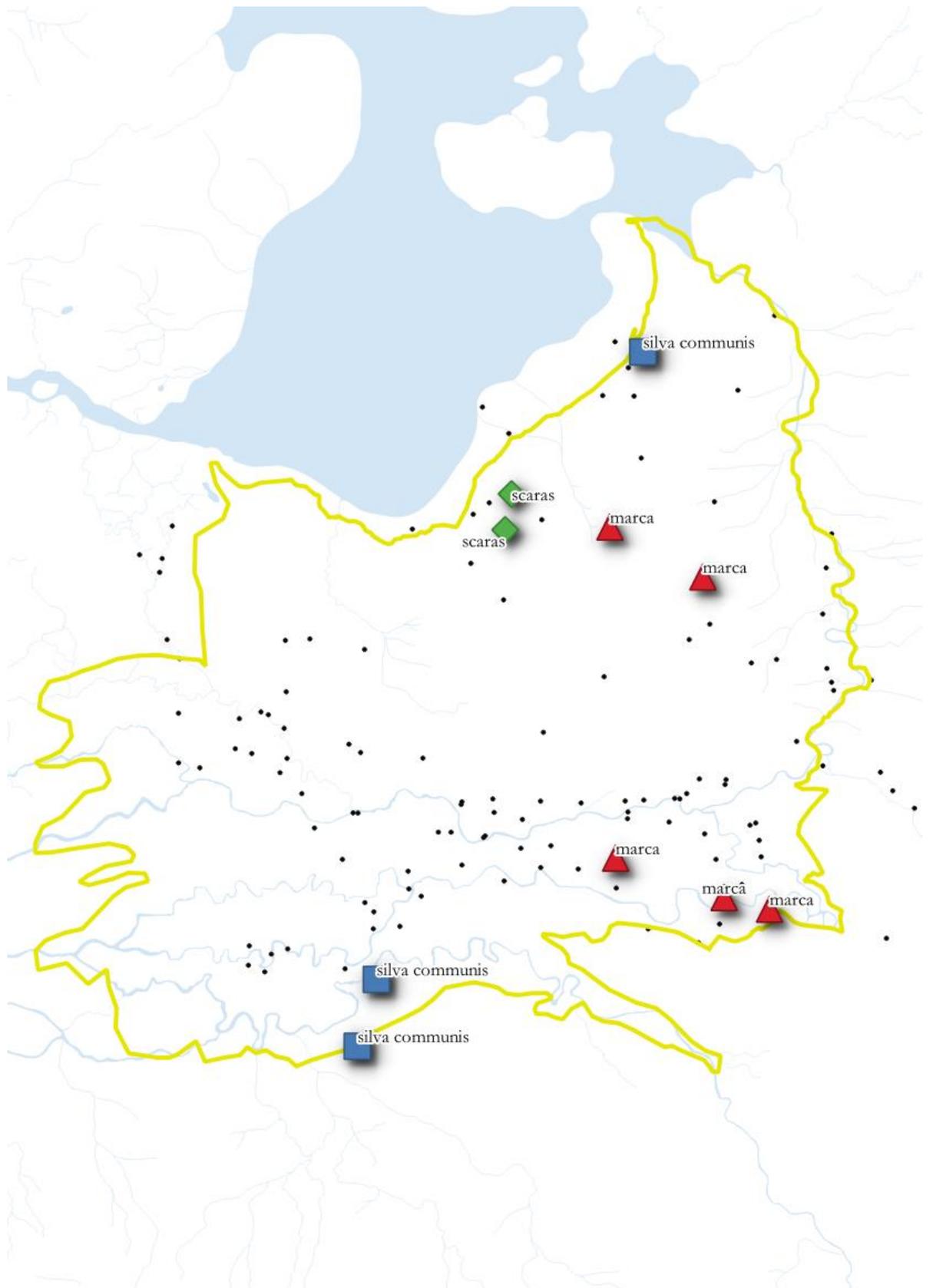
The Scarcity theory opposed this hypothesis and argued that, at least in the Central Netherlands, there was little evidence of a causal connection between the emergence of the commons and the dissolution of the manorial system. Instead, its supporters considered the growing scarcity of land in and around the thirteenth century to have led to the creation of commons. They reasoned that waste- and woodland in the Carolingian Central Netherlands had been public land to which all peasants had unhindered access, as there was plenty to go around.

Chapter 3: Written sources

In the past, the terms *silva communis*, *marca* and *(holt)scara* have been considered to indicate the presence of common land, though this meaning has not been undisputed, as will be made clear in this chapter. These terms also appear in the written sources for places across the Carolingian Central Netherlands (see map 6). In this chapter, the contrasting interpretations of these terms will be analysed, focussing especially on the interpretation within the Mark, Domanial and Scarcity theories.

My approach in exploring the meaning of these terms has been somewhat different compared to previous studies. First of all, I am a historian by training, and not a specialist of historical linguistics. This means that I tread on new ground with topics, methods and debates which I am probably unfamiliar with. On the other hand, I offer a perspective on a debate that has been dominated by linguists. Secondly, my starting point in this investigation has been to identify the meaning of these terms within their specific manuscript contexts, rather than to arrive at a general meaning inferred from the total body of textual witnesses.¹⁹⁰ The use of external sources to determine the supposed meaning of a term within the specific context of my sources, is employed as a secondary measure only. I have various reasons for choosing this approach, but the most important ones are the notion that there was no uniform meaning of these terms within the Carolingian world and that the meaning of these terms could vary over time and space.

¹⁹⁰ See for example the comprehensive studies into the term '*scara*' by: Christine Grainge, 'Assarting and the Dynamics of Rhineland Economies in the Ninth Century: Scarae at Werden, Weissenburg and Prüm Abbeys', *The Agricultural History Review* 54 (2006) 1, 1-23; or '*marca*' by Edward Roberts, 'Boundary Clauses and the Use of the Vernacular in Eastern Frankish Charters, c.750–c.900', *Historical Research* 91 (2018), 580–604.



Map 6: The discussed possible written evidence for common land mapped. Black dots represent locations for which there is evidence of Carolingian habitation but without written indications for the presence of common land.

3.1 Finding the right words

If common land existed in the Central Netherlands, then it is unlikely that the inhabitants of this region called it by one and the same word. This is partly due to the fact that they spoke a range of different languages, and partly due to the assumption that the terminology for the manner in which rights to land were distributed, depended on the natural and social landscape in which these people lived.¹⁹¹ Even during the late medieval period, words for common land and the rights to denote a share in common land varied across the Central Netherlands. For example, common (wood)land was called a ‘*marchia*’ in Zwolle, ‘*malscep*’ in Maarn and ‘*warscap*’ in Arnhem.¹⁹²

Moreover, the varying native idiom was translated by scribes who needed to capture the local idiom as authentically as possible in Latin, without losing eligibility for the internationally operating elite.¹⁹³ The use of vernacular loanwords was the exception to the rule of Latin writing in manorial administration across the Carolingian world. However although charters were written in Latin, in the documents of the Abbey of Werden there seems to have

¹⁹¹ Though sharp linguistic boundaries between Germanic and Romance languages were probably absent which eventually led to the language-variant ‘Central Dutch’. See: Schrijver, *Language Contact* 152-155. For the state of research of early medieval multilingualism and its use in charters, see: Rosamond McKitterick, ‘The Languages of Early Medieval Charters : Latin, Germanic Vernaculars, and the Written Word’ in: Robert Gallagher, Edward Roberts and Francesca Tinti (eds.), *The Languages of Early Medieval Charters : Latin, Germanic Vernaculars, and the Written Word* (Boston 2020), 22-67. For the assumption that terminology depended on local circumstances, see: Edward Roberts, ‘Boundary Clauses’ at p. 601. Edward Roberts and Francesca Tinti, ‘Signalling Language Choice in Anglo-Saxon and Frankish Charters, c.700–c.900’ in: Robert Gallagher, Edward Roberts and Francesca Tinti (eds.), *The Languages of Early Medieval Charters : Latin, Germanic Vernaculars, and the Written Word* (Boston 2020) 188–229, at p. 203.

¹⁹² Slicher van Bath, ‘Studiën betreffende’ 55. B. H. Slicher van Bath, ‘Nederlandsche woorden in Latijnsche oorkonden en registers tot 1250 (II)’, *Tijdschrift voor Nederlandse Taal- en Letterkunde* 65 (1947), 118-147.

¹⁹³ Dirk Peter Blok, *Een diplomatisch onderzoek van de oudste particuliere oorkonden van Werden : met enige uitweidingen over het ontstaan van dit soort oorkonden in het algemeen* (Assen 1960), 47. Roberts and Tinti, ‘Signalling Language’ 198. See for the widespread pragmatic use of Latin among the Carolingian elite: McKitterick, *The Carolingians* (Cambridge 1989), 1-22. Rosamond McKitterick, ‘Latin and Romance: an historian’s perspective’ in: Rosamond McKitterick (ed.), *Frankish Kings and Culture in the Early Middle Ages* (Aldershot 1995), 130-145.

‘been some fluidity in writing, or even some kind of ‘code-switching’’ between Latin and the local tongue.¹⁹⁴

Such cases in which the scribe chose to retain the local tongue could indicate that the concept this word denoted was not easily captured in Latin. However, there are also cases where the local vernacular is used while a straightforward Latin alternative seems to have existed. For example, in the *Urbar Werthinense* the phrase ‘*an uuerinon thiu kirica endi al that gilendi*’ (at Werinon the church and all that belongs) can be encountered in a list of rights the abbey owned in the Vecht region.¹⁹⁵ Latin and the local vernacular is completely intertwined in this list, probably ‘echoing the technique of its first draft [which might have been] a kind of memo that may have been written following the consultation of a vernacular speaker, perhaps a local official with a poor knowledge of Latin.’¹⁹⁶

According to historian Stefan Esders, the considerable distance between the Central Netherlands to the Abbey of Werden might have caused the scribe to retain the local vernacular of this first draft, as local law and customs of landholding might have differed to some extent from those in Saxony.¹⁹⁷ On the other hand, this explanation might be a bit far-fetched as the Latin vocabulary available to scribes was, according to Rosamund McKitterick, ‘enormously diverse’ and regionally differentiated.¹⁹⁸ Naturally, it should therefore not be assumed that the concept of common land would and could have been captured by the same Latin term.

In my opinion the meaning of the possible terms for common land ought to be reviewed preferably when they are employed by the same scribe, or by scribes who had been trained at the same location, as they are more likely to have made consistent choices in their translations.

¹⁹⁴ Stefan Esders, ‘Vernacular Writing in Early Medieval Manorial Administration: Two Tenth-Century Documents from Werden and Essen’ in: Robert Gallagher, Edward Roberts and Francesca Tinti (eds.), *The Languages of Early Medieval Charters: Latin, Germanic Vernaculars, and the Written Word* (Boston 2020), 378-311, at p. 383.

¹⁹⁵ Landesarchiv NRW Abteilung Rheinland, Werden, Akten AA 0546, Nr. 9 - a 1 a. f. 34v.

¹⁹⁶ Esders, ‘Vernacular Writing’ 383-384.

¹⁹⁷ Esders, ‘Vernacular Writing’ 385.

¹⁹⁸ Rosamond McKitterick, ‘The Uses of Literacy in Carolingian and Post-Carolingian Europe: Literate Conventions of Memory’ in: *Scrivere e leggere nell’alto medioevo* 59 (Spoleto 2012), 179–211, at p. 182.

Moreover, it will become clear that the vocabulary of the *Urbar Werthinense* and the *Cartularium Werthinense* are much closer to each other than they are to, for example, the property book of the Abbey of Lorsch (the *Codex Laureshamensis*). The first sign is that, within the Carolingian Central Netherlands, the term *marca* can only be found in the *Codex Laureshamensis*.¹⁹⁹ Secondly, only in the documents created in Werden can the term *scara* be encountered, which arguably is a reference to common land.

	<i>silva communis</i>	<i>marca</i>	<i>scara</i>
Cartularium Werthinense	✓	X	✓*
Codex Laureshamensis	✓	✓	X
Urbar Werthinense	X	✓*	✓

Table 6: This table illustrates the presence of terms within each source. The asterisk indicates that the term is present, but in combination with a location outside the Central Netherlands.

¹⁹⁹ Though it is mentioned once in the *Urbar Werthinense* for a place outside the Central Netherlands.

3.2 The Cartularium Werthinense

Around the middle of the ninth century the monks of the abbey of Werden composed a whole new kind of book, consisting of full reproductions of seventy-six charters of which the originals no longer survive. It is nowadays known as the *Cartularium Werthinense*.²⁰⁰ As a cartulary it served foremost as a legal record of the lands the abbey owned beyond the Rhine, mostly in regions which Charlemagne had conquered on the Saxons.²⁰¹ However, more recently it has been argued that this codex also served a memorial purpose, by commemorating the people who had bestowed the abbey with its landed property or witnessed these pious donations.²⁰²

Among these people, the codex memorialized a handful of persons who donated land in the newly reclaimed IJsseldelta and the recently (re)conquered IJsselvallei at the turn of the ninth century.²⁰³ These charters are exceptional in two regards: First, they derive from the lay family archive of the Liudgeriden, who founded the abbey, and only later ended up in the church archive of Werden.²⁰⁴ Such traces of lay archives are extremely rare.²⁰⁵

Secondly, these charters shine their light on some of the different possibilities in which property rights to land could be acquired, most notably through inheritance, exchange and reclamation. It should not be overlooked that the IJsselvallei and the IJsseldelta were regions where the use of charters in legal transactions might have been anything but self-evident. Although the existence of these charters hints at a swift adoption of the written word, their use might still have been an abnormality in a semiliterate society where rights to land were

²⁰⁰ Leiden, University Library, VLQ 055.

²⁰¹ For a good general overview of the possible functions and purposes of cartularies, see: C. B. Bouchard, *Rewriting saints and ancestors: Memory and forgetting in France, 500-1200* (Philadelphia 2014). In particular chapter 2.

²⁰² McKitterick, 'The Uses of Literacy', 197-198.

²⁰³ Blok, *Een diplomatisch onderzoek* nr. 1; 4; 9; 10; 18; 25; 30; 31.

²⁰⁴ Concerning the position of such proprietary churches in early medieval Europe, see: Susan Wood, *The Proprietary Church in the Medieval West* (Oxford 2006). On Werden specifically: Wilhelm Stüwer, *Die Reichsabtei Werden an der Ruhr* (Berlin 1980).

²⁰⁵ Warren Brown, 'When documents are destroyed or lost: lay people and archives in the early Middle Ages', *Early Medieval Europe* 11 (2002), 337-66.

traditionally stored in the collective memory of the local population.²⁰⁶ Nonetheless, these charters are the closest we can get to the mechanisms by which property rights were exercised and transferred in this part of the Carolingian Central Netherlands.²⁰⁷

3.2.1 Context and background source

The *Cartularium Werthinense* consists of twenty-nine folios measuring 240 x 175 mm, written in a neat Carolingian minuscule.²⁰⁸ Aside from one missing quire, going by its original table of content, the *Cartularium Werthinense* has completely survived.²⁰⁹ The manuscript was written at the Abbey of Werden, possibly in the tenth century, or, more likely, in the middle or perhaps second half of the ninth.²¹⁰ The charters themselves range in date from the year 793 to 846 and were originally written by at least twelve different scribes.²¹¹

In contrast with the scribes of the original charters of the *Codex Laureshamensis*, who were trained in Lorsch, the original scribes of the charters preserved in the *Cartularium Werthinense* wrote, and a number of them probably lived, in the vicinity to the properties they described.²¹² It could therefore perhaps be assumed that these local notaries were very familiar with the local tongue and jargon which was used to describe different kinds of rights to land. However, other scribes, such Thiatbald, who will be introduced further on, seems to have accompanied the family members of the Liudgeriden across their travels though Europe.

²⁰⁶ On these regions specifically, see: Blok, *De Franken* 60. McKitterick, *The Carolingians* 190. On *Verschriftlichung* more generally, see: Mostert, Marco, 'Reading, Writing and Literacy: Communication and the History of Medieval Societies' in: Pernille Hermann (ed.), *Literacy in Medieval and Early Modern Scandinavian Culture* (Odense 2005), 261-285.

²⁰⁷ They show what Matthew Innes has called the 'practices of property'. See: Matthew Innes, 'Practices of Property in the Carolingian Empire' in: Jennifer R. Davis and Michael McCormick (eds.), *The long morning of Medieval Europe* (London 2008), 247-266, at p. 249.

²⁰⁸ B. Bischoff, *Katalog der festländischen Handschriften des neunten Jahrhunderts (mit Ausnahme der wisigotischen)* (Wiesbaden 2004), 59.

²⁰⁹ Ingrid Rembold, 'Rewriting the founder: Werden on the Ruhr and the uses of hagiography', *Journal of Medieval History*, 41 (2015) 363-387, at p. 385.

²¹⁰ McKitterick supposed on the basis of paleographical characterizations that the cartulary was most probably written around the middle of the ninth century. McKitterick, 'The Uses of Literacy' 190. For contrasting opinions see: Blok, *Een diplomatisch onderzoek* 18, 25 and Bischoff, *Katalog* 59.

²¹¹ McKitterick, 'The Uses of Literacy' 189, 193.

²¹² McKitterick, 'The Uses of Literacy' 194-195.

tructa
 fluuio
 uilla
 lumi
 pascu
 bus ad
 & prim
 odib;
 acuit
 rans
 ic dien
 tandi,
 nac fir
 ipula
 erio,
 xiii.
 xiiii.
 aditi
 lbrat
 r bald
 ubscrip
 a uiii
 is qua
 tem
 iue est
 rchima
 silua
 pper
 irma

umus, p̄sensq; traditio firma maneat, stipulatione
 subnixa. acta in uerithina monasterio. iii. n̄kl̄ de c̄m̄.
 anno. ii. regni domni blotharii regis. Indictione. v.
 siḡ meginhardi. & uulfi, qui hoc tra dider̄t in iuici.
 siḡ raduni. siḡ frithubaldi. siḡ nunni. siḡ heribaldi.
 siḡ gerbaldi. siḡ salabaldi. siḡ bernnūni.
 ego thiathard̄ subdiac̄ scripsi & subscripsi.

xxv. de holtscara Inuici.

Breue memoratorium de illa pastione quod nos ha
 bemus de ambas partibus rura, in hesi. & in uagnes uualdo
 In primis in hesi heimricus donauit ad. lx. porcos.
 de hretinga. uillebald. & neptir illius uendiderunt
 ad. lx. porcos. aluric. uendit nobis hereditatem
 suam in lapan heldi ibiptin & ad nonaginta porcos.
 gerfrid habet in ipsa uilla. ad xxx. porcos. Alfranc.
 tradidit nobis. ad. xx. porcos. de mēdīna. gerala.
 uendit nobis ad quindecim porcos. de uūiti. euir
 uūini. tradidit pro salute anime sue ad. xx. porcos.
 de ipsa uilla. euuco. & hildirad. & illorum cohe
 redes tradiderunt ad. xxx. porcos. Othilulf.
 in hrātuga tradidit nobis pastum. x. porcorum.
 ad illam terram p̄tinē quā in uūiti comparauimus
 a me in har do. qui sororem hūtionis in coniugio ha
 buit pastum. ad. xxv. porcos. ad heribaldo compa
 rauimus ad pastum. xxx. porcorum. In uagnes
 uuald. habemus in fislacu. de ino manso quicquid
 ibiptin & de alia manso tertiam partem.
 & in ipsa uilla tradidit. hrodhard. ad. v. porcos.
 hludouuinū. ad. v. porcos. regimbret. ad. v. porc.
 & in uūiti comparauimus de meginhard. ad. xx.
 porcos.

Ratingen

Lopmghredt

Ratingen

Wislant

Picture 1: Folio 48r. of the *Cartularium Werthinense* contains the list of *holtscara* the abbey owned in the woods close to Werden.

Moreover, from an orthographic study, which involves analyses spelling, punctuation and other conventions of the written language, of placenames and personal names recorded in the cartulary, the presence of several linguistic influences from different language-groups could be inferred.²¹³ Most notably, the orthography of the charters written before *c.* 800 AD appears to have been influenced by Insular writing customs.²¹⁴ This is relevant, because it has been observed that writing centres like Werden, whose writing practices were influenced by Anglo-Saxon missionaries, used vernacular terms more frequently in their documents.²¹⁵

This might have something to do with the fact that the Anglo-Saxons were possibly more used to writing in the vernacular. Liudger, the founder of the Abbey of Werden, was trained at both Utrecht and York.²¹⁶ Moreover, the school at Utrecht had itself been a mission post of Anglo-Saxons from the late seventh century onwards and it remained closely connected with Anglo-Saxon England in the eight century.²¹⁷

However, the extent to which Insular ways of Latin wording influenced the phrasing of the charters in the *Cartularium Werthinense* remains to be studied. In the section that follows the Latin term ‘*silva communis*’ will be studied, which might be understood as an attempt to Latinize and standardize local practices of common landholding.

3.2.2 The *silva communis* of Suifterbant

In the year 793 AD, a man called Liudger (son of Hredgaer) donated in exchange for the salvation of his soul to his *amicus* Liudger (son of Thiadgrim), half of his belongings in the

²¹³ Heinrich Tiefenbach, ‘Zu den Personennamen der frühen Werdener Urkunden’ in: Dieter Geuenich and Wolfgang Haubrichs and Jörg Jarnut (eds.), *Person und Name Methodische Probleme bei der Erstellung eines Personennamenbuches des Frühmittelalters* (New York and Berlin 2001), 280-304.

²¹⁴ See further on section 3.2.2.1 the Mark theory.

²¹⁵ Esders, ‘Vernacular Writing’ 380.

²¹⁶ Wilhelm Diekamp (ed.), *Vita Sancti Liudgeri auctore Alfrido* (Münster 1881) 15.

²¹⁷ Mostert, ‘Boniface in Frisia’.

place *Berilsi*.²¹⁸ The territory (*terminos*) belonging to this yet-unidentified place called *Berilsi* was bound by the Zuiderzee and the estuary of the Gelderse IJssel.²¹⁹ Therefore it is usually located somewhere in the modern-day IJsseldelta.²²⁰ Along with this donation of land in *Berilsi*, Liudger also donated his patrimony in *Suifterbant*, which, the charter attests, was also known as the ‘sea-forest’ (*Seaeuwald*), with the exception of the cultivable fields which had been cleared by his and his father’s men (*hominibus nostris*).

Intriguingly, Liudger had the rights to *Suifterbant* to the extent that he could give these away, but when sections of this wasteland had been reclaimed and turned into arable fields, the ownership of these tracts of land apparently fell out of his command. It would appear, therefore, that *Suifterbant* was a shared property, in some form or another.

Fortunately, we are better informed of the allocation of rights to *Suifterbant* by another charter. Three years later, the same Liudger, son of Hredgaer, donated another share of his inheritance to Liudger, son of Thiadgrim. On this occasion, Liudger donated property in the villae *Bidningahem* (unidentified) and *Thornspiic* (Doornspijk), which included fields, meadows and pasture. In the charter, he also confirmed his previous donation of all he owned in the woods of *Suifterbant*: ‘*et in omnem communionem mecum (meam) in silvam que dicitur Suifterbant.*’²²¹ It is to the correct interpretation of this phrase which we will turn in the following sections.

3.2.2.1 The Mark theory

‘*et in omnem communionem mecum (meam) in silvam que dicitur Suifterbant.*’ Although the advocates of the Mark theory did not study this specific excerpt, multiple historians who cannot

²¹⁸ Blok nr. 1.

²¹⁹ R.E. Künzel, D.P. Blok and J.M. Verhoeff, *Lexicon van Nederlandse toponiemen tot 1200* (Amsterdam 1988), 130.

²²⁰ Gysseling, *Toponymisch Woordenboek* 346.

²²¹ Blok nr. 9.

directly be associated with any of the paradigms recognized it as evidence of common land. To start with historian D.P. Blok, who reads the sentence as: ‘everything in the woods what comes with me (*mecum*)’ or ‘everything I own in common (*meam*)’.²²² Whilst denying a direct connection between these common property rights and the commons of the late middle ages, according to Blok Liudger exchanged his rights to *Suiferterband* as a common woodland. Likewise, also a recent German translation by historian Michael Buhlmann interpreted *Suiferterband* as a ‘*gemeinsamen Wald*’, as well as the better known Dutch historian J. F. Niermeyer, who interpreted this specific passage as an example of restricted usage rights to common property, namely a ‘*silva communis*’.²²³

Upon closer inspection, these rights were the personal property of Liudger, rather than being attached to a specific farmstead. It differs in this aspect from the appurtenances (*pertinentia*) which were usually attached to farmsteads and which were often summed up at the end of a charter in highly standardized phrasing.²²⁴ For example, within this particular charter we find that to the endowed *villae* also, presumably public, rights to fields, pasture, meadows, fisheries, watercourses and collective passages (*perviis communis*) were attached.²²⁵ However, as Liudger’s personal rights to *Suiferterband* were mentioned in the main text (the *narratio*) of the charter, they appear to exist in addition to this set of accessory rights.²²⁶ In section 3.4 I will come back on these accessory rights. For a better understanding of the rights

²²² Blok, *De Franken* 88.

²²³ Michael Buhlmann, ‘Quellen zur Geschichte des Klosters Werden a.d. Ruhr I. 796 Juni 6, *Ad os amnis*: Tradition des Liudger - Schenkung von Besitz in Friesland an den Priester Liudger’, http://www.michael-buhlmann.de/Werden_Quellen_I/07960606.html (consulted online on 23/03/2021). ‘*communia*’ in: J.F. Niermeyer and C. van de Kieft and J.W.J. Burgers (eds.), *Mediae Latinitatis Lexicon Minus*, <https://brill.com/view/db/mlmo> (consulted online on 23/03/2021).

²²⁴ Hans-Werner Goetz, ‘Beobachtungen zur Grundherrschaftsentwicklung der Abtei St. Gallen vom 8. zum 10. Jahrhundert’ in: Werner Rösener, *Strukturen der Grundherrschaft im frühen Mittelalter* (Göttingen 1989), 197-246, at p. 225.

²²⁵ Blok nr. 9.

²²⁶ Keyzer for example, also distinguishes between late medieval common property rights ‘linked with tenancy or ownership of a particular building’ and the rights in ‘a cooperative or association of members (in German a ‘*Genossenschaft*’ or in Dutch a ‘*markgenootschap*’) [of which] could be inherited, but could also be attached to a certain building or property.’ De Keyzer, *Inclusive commons* 3.

to the *silva communis Suifterbant* we now turn to yet another charter by the same scribe, which also mentions a *silva communis*.

Not often do we learn something about the background of a scribe. In this case, however, the endowment of Liudger in the charter from 796 AD was signed by the priest Thiatbald.²²⁷ As Thiatbald identified himself as the author of several other charters written between 793 to 801 AD, linguists have been able to characterize his writing style.²²⁸ They concluded that Thiatbald was influenced by writing conventions which originally derived from the British Isles. However, because Anglo-Saxon scholars taught at several places across the Carolingian world, we cannot localise the training of Thiatbald to a specific location, although the mission post at Utrecht seems to be a likely candidate.²²⁹ Nonetheless, his personal writing style was characterized as ‘progressive’ compared to the archaic Latin of younger scribes, but also as ‘consistent’ in its terminology.²³⁰ Therefore, it could be worthwhile to see how Thiatbald described the acquisition of rights in the context of a *silva communis* in the Ruhr valley.

In a charter written by Thiatbald, dated to 796 AD, a man called Hemric donated a small part of his property which he had partly inherited and partly acquired through his own labour.²³¹ More specifically, Hermic donated a *conprehensionem* which he had reclaimed from the common woods (*communioneque in eandem siluam*) between the river Ruhr and the highlands. Possibly, this ambiguous passage could also be interpreted as that the boundaries of this unspecified woodland were shared by the highlands and the river. Hemric also donated the usual set of accessory rights including fisheries and pasture, which ‘belong to and can be used

²²⁷ Blok nr. 9: ‘*Ego Thiatbaldus humilis presbiter rogatus scripsi et subscripsi*’.

²²⁸ Tiefenbach, ‘Zu den Personennamen’ 294.

²²⁹ Though Blok considered Thiatbald to have been trained somewhere in the vicinity of modern-day Luxemburg. Blok, *Een diplomatisch onderzoek* 73.

²³⁰ Tiefenbach, ‘Zu den Personennamen’ 294.

²³¹ Blok nr. 7.

from that place'. Again, the rights to this *silva communis* appear to exist in addition to these accessory rights.

We also learn from this charter that woodland could be turned into privately owned land by way of reclamation. This would explain why Liudger, son of Hredgaer, only bequeathed his rights to *Suifterbant* with the exception of the fields which had been reclaimed. From another contemporary charter, which may not have been written by Thiatbald, we learn that a *conprehensionem* was physically demarcated with boundary-signs all around (*signis circumgiratum*).²³² During the handover of this *conprehensionem* the attendees are stated to have walked around its borders, probably to demark this land from the common land by which it was surrounded.²³³ If so, then we might perhaps infer the existence of common land from the occurrence of reclaimed fields that were individually owned. As it happens, the term *conprehensionem* also occurs in two charters within the *Cartularium Werthinense* of properties in the IJsseldelta and the IJsselvallei.²³⁴

3.2.2.2 The Domanial theory and the Scarcity theory

If by reclaiming a piece of wasteland a person could acquire full ownership rights to land, then it matters who exactly was permitted to reclaim such a tract of land. If everyone was entitled to reclaim a piece of land, then it meant that wasteland was public land, as the Scarcity theory argues. However, if only some people were allowed to carve out a piece of land then wasteland is more likely to have been common land. In the case of *Suifterbant* we are simply insufficiently informed to determine which of these options applies, but the following analogy in the *Cartularium Werthinense* is, perhaps, telling.

²³² Blok nr. 27, dated to 802 AD. Some medievalists have not only considered perambulation (bound-walking) to have been a common element within transactions of land, but also of social life in early village-communities. See: Roberts, 'Boundary clauses' 583-584. Wickham, 'Rural Society' 526.

²³³ Blok nr. 26.

²³⁴ Blok nr. 10 and 31.

A *prestaria* dated to 801 AD records that all the neighbours (*vicinis*) knew that Helmbald donated to Liudger the rights to his *conprehensionem* in *Salehem* (Zelhem).²³⁵ In return, Helmbald received for the duration of his lifetime the usage rights, or usufruct, of one half of what had been his land, for which he in return had to pay a tithe of half a *solidus* per year. Fortunately, the local cleric Wambert also recorded in which manner Helmbald originally received the rights to his land: Helmbald had ‘lawfully’ reclaimed this land through his own labour and with the help of his friends (*amicorum*), in the territory which collectively (*communione*) belonged to him and his *proximorum*, based on their rights of inheritance (*hereditate*).²³⁶

Problematically, the word *proximorum* can be interpreted as synonym for the already mentioned ‘neighbours’ (*vicinis*), but it may also refer to his next of kin.²³⁷ In the case of ‘neighbours’, it would entail that Helmbald and his neighbours owned a piece of the woodland because they had inherited farmsteads to which these rights to this common woodland belonged. However, advocates of the Domanial theory argue that the *silva communis* of this example actually denoted a situation of (yet) undivided inheritance among relatives.²³⁸

According to multiple early medieval law-codes, including the *Lex Salica*, Franks were by law required to share their patrimony equally between brothers and sisters.²³⁹ The *Ewa ad Amorem* a law-code from the Central Netherlands dating to c. 800 AD, is, in that regard, no exception and also quite specific.²⁴⁰ It stipulates that a Frank (*homo Francus*) is required to divide his heritage (*hereditatem*) of land (*terra*), woodland (*silva*), servants (*mancipiis*) and wealth (*peculio*) between sons, and a mother her heritage between daughters.²⁴¹ It would have

²³⁵ Blok nr. 24. A *prestaria* is a specific type of donation in which donated rights are partially returned.

²³⁶ Blok nr. 24.

²³⁷ Blok, *De Franken* 109.

²³⁸ Dopsch, *The Economic Foundation* 25, 96-99.

²³⁹ Murray, *Germanic kinship* 202.

²⁴⁰ ‘Lex Francorum Chamavorum’ in: R. Sohm (ed.), *MGH Legum* (V) (Hannover 1875), 269-276. See for a discussion: Hoppenbrouwers, ‘Leges Nationum’ 258-260.

²⁴¹ XLII ‘Lex Francorum Chamavorum’ p. 275.

been unnecessary, and quite impractical, however, to fence off one's individual share of woodland. Therefore, woodland usually remained 'undivided'. Nonetheless, heirs were at any time entitled to enclose and appropriate their individual 'share', called a *conprehensionem* according to the Domanial theory, from the *silva communis*.²⁴²

Going back to the allocation of rights to *Suifterbant*, it is recorded that Liudger owned the rights to *Suifterbant* lawfully as part of his inheritance from his father Hredgaer.²⁴³ It could be speculated that Liudger, son of Hredgaer was a *homo Francus*, as Frisians and Saxons had, according to one scholarly theory, been deprived of the rights to inherit patrimonies (*ius paternae hereditatis*) since c. 784 until 814.²⁴⁴ If so, he may very well have shared the rights to *Suifterbant* with his brothers rather than with his neighbours, which would make this woodland a prime example of a privately owned woodland all along. While the resources of the *silva communis* are in this later case still shared among different proprietors akin to a commons, one difference with common land is that the property rights of the *silva communis* were not invested in the village-community. Instead, these rights were distributed individually, by a voluntary association of kinsmen who were entitled to do exactly as they liked with their piece of woodland.

3.2.2.3 Discussion

The correct meaning of the *silva communis* cannot be taken for granted. Around the meaning of the word *silva* there is no controversy, as this term is generally used to denote woodland or an uncultivated wooded region. However the meaning of the term *communis* is far more difficult to decipher. It might refer to a 'community', but it can also mean 'shared'. Which of

²⁴² Dopsch, *The Economic foundation* 99.

²⁴³ Blok nr. 1 and 9.

²⁴⁴ Astronomer, *Vita Hludowici imperatoris*, Edition by E. Tremp (ed.), *Thegan: die Taten Kaiser Ludwigs; Astronomus: die Leben Kaiser Ludwigs*, MGH SRG, 64 (Hanover 1995), 356. See: Blok, *De Franken* 98. K. Kuiken, 'De Liudgeriden (ca. 711-877) De oudste bekende adellijke familie van Nederland', *Virtus* 12 (2005), 7-35, at p. 12-13.

these options is more plausible depends to a large extent on the correct interpretation of the term *proximorum*, which could have been used to denote neighbours, but it might also refer to one's next of kin. The first possibility is usually chosen by the advocates of the Mark theory, as they consider woodland to have been the shared property of neighbours. However, the proponents of the Domanial and the Scarcity theory opt for the second meaning, and interpret it as an undivided heritage among heirs.

In my opinion these interpretations are not irreconcilable as undivided heritage could easily have become common land. If the practice of partible inheritance continued over, let us say, a century or two, than most undivided wood- or wastelands would have become highly fragmented with claimants who were only remotely related. If these rights and shares to undivided wasteland were alienable (as they appear to have been) then shares could also end up in the hands of totally unrelated proprietors. In my opinion, this possibility demonstrates once again the hypothetical existence of common land in the Carolingian Central Netherlands.

3.3 The Codex Laureshamensis

In this section we will review the occurrences of the term ‘*marca*’ which appear in the *Codex Laureshamensis*.²⁴⁵ From the nineteenth century onwards, these *marcae* have been interpreted as evidence of common land.²⁴⁶ What is more, the *Codex Laureshamensis* also holds another possible indication for the presence of common land in our region, namely another example of a *silva communis*. In this section, I will review both terms, but the focus will be on the correct interpretation of the term *marca*, as the meaning of the *silva communis* has already been discussed in the previous section.

3.3.1 Context and background

Although the Lorsch, like Werden, was initially founded as a proprietary church, it was appropriated by the king in 772 AD, whereas the latter remained independent until 877 AD.²⁴⁷ One conceivable consequence of its early royal protection is that Lorsch developed into a more prominent center of learning than Werden. This disparity in status was also reflected in the number of donations these monasteries received, as Lorsch received more and larger donations of property. The almost four thousand transactions of donors who wished to enter into Lorsch’s social and spiritual network stands marked contrast to Werden’s client-base of *c.* hundred persons in the Carolingian period.²⁴⁸

Like the *Cartularium Werthinense*, the *Codex Laureshamensis* was also created following a time of unrest and uncertainty about the abbey’s leadership . But the sources differ

²⁴⁵ Würzburg, Staatsarchiv, Mainzer Bücher verschiedenen Inhalts 72, 30r-59v.

A digital facsimile can be accessed online: <https://doi.org/10.11588/diglit.19939> (last accessed: 23-03-2021). For the edition see: Karl Glöckner (ed.), *Codex Laureshamensis*, vol. 1-3 (Darmstadt 1929-1936). Hereafter abbreviated as: CL.

²⁴⁶ Forsman et al., ‘Eco-evolutionary perspectives’.

²⁴⁷ Michael Buhlmann, ‘Die älteste Immunitatsurkunde für das Kloster Werden an der Ruhr’, *Das Münster am Hellweg* 52 (1999), 55-74.

²⁴⁸ Goosmann, ‘Aristocratic Exploitation’ 30. Tiefenbach, ‘Zu den Personennamen’ 285.

in the sense that the *Cartularium Werthinense* is a contemporary Carolingian creation, whereas the *Codex Laureshamensis* is not. Parts of it might go back to a now-lost cartulary created in c. 870 AD, but this remains speculative.²⁴⁹ It was not until the twelfth century, when the Abbey of Lorsch had lost much of its Carolingian prestige, that, according to Goosmann, ‘Lorsch’s abbots searched for ways to reclaim their monastery’s former wealth and grandeur. Perhaps the most outspoken expression of this restoration attempt was the composition of the *Codex Laureshamensis*.’²⁵⁰

This attempt to restore their claims to ‘their’ properties resulted in a manuscript of 229 folios measuring 460 x 335 mm, in which some of the content of the original charters was recorded.²⁵¹ Its twelfth-century compilers were, in contrast to the ninth century compilers of the *Cartularium Werthinense*, only interested in the legal ‘essentials’ of a charter. Thus whereas the original charters of the *Cartularium Werthinense* appear to have been copied fully and probably faithfully, only those sections that could be used in a twelfth-century legal context were copied into the *Codex Laureshamensis*.²⁵² One consequence has been that in the following excerpts, we are not only less informed about the wider context of the donation, but we also need to be more aware of possible later interferences in the text by scribes who might have replaced older terms with substitutes they were more familiar with.

²⁴⁹ Innes, *State and Society* 14.

²⁵⁰ Goosmann, ‘Aristocratic Exploitation’ 30.

²⁵¹ Goosmann, ‘Aristocratic Exploitation’ 30.

²⁵² Innes, *State and Society* 15. With a couple of exception of fully transcribed charters, like CL 33 (*villa Geizefurt*).

in media cōtento. qua diuinitē sedata. in bannu regē quem
dicunt de webelingen. euenti regni uniuersalis electio. Aquo
ut aunte pcesse adhuc pmanet impialis pspira. hāc bannu
genat Henricum. Henricus uero Henricum. Henricus qd Hen-
rici. impatorē spire. sepulchro friderici ducē cesopore Henrici
Lunardi regē. friderici ducē. friderici ducē. friderici impa-
torē. In hōmō tamū mediērat. Lonbari impator. n̄ huius f-
saxonē generis. h̄c naq. Lunardi feds rec. rogatu p̄fatu. Re-
ginaldi abbas. t̄dicit. scō slabario omē suū regale in imman-
cipu in bannita. **Lunardi regis fedi de mancipiū sui**

Ignome scē ynduidiūg t̄m̄tatis **uiris in bannita.**
Lunardi d̄s diuina fauente clemētia regē. Diuina nobis regali
potentia collata p̄cedit. diuina deuotione c̄cedit. nobis
hoc maxime aditū regni. y ad remediū anime n̄rē. p̄fūtam
c̄didi. App̄t nouerit. om̄ium xp̄i n̄rī q̄ fidelitū tam p̄fens
grat. quā successura posteritat. qualē nos inuentū ac peccato-
ne h̄sēte commiḡ n̄rē dilectiōne uidelicet regine. nec n̄
ob aliū d̄m̄ fidele. q̄ seruitū Reginaldi abbas omē n̄s qd
ad n̄m regale respicit. manu in mancipiū ad eurtē. banni-
ta p̄nentiū. Lauri h̄m̄si monasterio in honore sc̄i slabary
n̄rī c̄struēdo. cui de uenabilis abb̄ p̄sident. larga donatione
cessim. ea felicitate ratione. ut nullas comes. uice comes. aut
alia quēlibet iudicialia p̄sona. meis cō mancipiū aliquid
de me cep̄t habere sui uirū euerendi potestate. siue ad placi-
tū suū cōstruēdi. seu bannū p̄soluēdi. nisi p̄dicit. abb̄
sui q̄ successores. y que ipsi aduocatiū elegerunt. Et ut hec n̄rē
c̄cessiōnis auctoritas stabili y in cūm̄sa om̄i p̄maneat. quo hanc

Signū domni Lunardi
regis mansuetissimi.



pagna in d̄e c̄scriptā manu p̄p̄a roboratē. sigillū n̄rī imp̄-
sione in sum̄ in signū. Vdalric cancellari. uice Arbeni archie-
pellam̄ regnouit. h̄ca. x̄v̄ij. kl̄. decemb̄. Anno d̄n̄cē in carnat. o. x̄c.
m̄j. Indict. vij. Anno ū domni Luonardi fedi regnantis p̄mo. h̄c d̄m̄
ocul̄ regit. ut debuit p̄missi n̄rī. **De bannita.** h̄c uobis
c̄soluētes. donationē in bannita cū suis appendentiis de
seribam̄. y sicut ad n̄s fedi fidelit̄ sub d̄m̄si regis collata. fē-
seruato rerū y tempore. disponam̄ ordine. h̄c d̄ ē conscrip-
tio rerū que t̄d̄t. fē scō slabario q̄ redēret in monastio qd
dicit Laurehā sup̄ flumiū wigol. infra. in barana. y in
harmaria. y malis locis inferius subnotatis. **Donatio bodeb**

Anno v̄ij. gliosi regis karoli. sub b̄ndelando abbe. tradidit
d̄t bodebert̄ in lacu ulla maudaco. inter scald. y siannon
meri. y quā h̄a mansū unū. y illā b̄sticā y eadē que de sup̄
posita ē. y terrā que adtingit ad mansū. y serū unū cum
uore. y filio. y x̄v̄ij. culmas ad sal faciendum. **Bertrich. y Rur**
Eodē anno bertrich y Rurwar t̄dicit. q̄ qd habuerunt
m̄loco qd dicit forimarsche. m̄hesla. y in leu sp̄h. y in
loco quoc̄t̄ elis h̄ofb. m̄ renū y oasa. y ad m̄a mudā.
et mancipia sex. **Donatio walteri y Richlinde.**
Anno q̄q. x̄x̄v̄. eiusdē karoli regis tempore aut Richbo-
donis abbas walteri y Richlinde. tradidit impago b̄ta-
we. in ulla salburmarca h̄bā unā. cū edificio supposito.
y in bannite marca h̄bā. cū om̄i edificio circūposito.

impago dubla in ulla ut marca in linga hōbā. redicū
suū. in felaouia in ulla ut marca in loch h̄bā. cū edifi-
c̄tio. y in ulla ut marca appoldro. duas partes de una
h̄bā. cū edificio. y in legol. marca t̄cam partē de una
h̄bā. cū edificio. y in mor gouue in rotheri marca t̄ca
partē de ipsa ulla ut marca. y q̄ qd in d̄m̄ d̄m̄ locis ha-
buerit. Et mancipia. l. viij. Actū Laurehā. **Cicambū Rur**

Anno x̄x̄x̄. y p̄fati regis idem Richbodo ep̄. abb̄ cōcam har-
bur. cū Rurhaco illu h̄r̄ uro mansū unū impago b̄ta-
tawā in bannite marca iuxta eccl̄m̄ que ibidē ē. y de-
dit. et mansū unū in Adelrebbheim. Actū Laurehā. **Berwar**

Anno primo Ludouici regis subadalungo abbe. tra-
didit Berwardus clericus impago b̄ta uua. in ulla b̄n-
nita h̄bā. l. vi. m̄hesla h̄bā. f̄. cū om̄i edificio y col-
laborato. y portione de silua in Suornom. y in Lubridan.
y in Burlobe. y silua in h̄ofle. y portione de illa in una
in Salahom ubi in silua flumen ē fluit in mare. Et ipsam
in silua in qua eccl̄a ē cōstruēta cū om̄ib; appendentiis
que sita ē in flumiū wal y bannita. y mancipia. x̄x̄.
Actū ad st̄gam palatio tempore q̄ supra. **Adalward.**

Eodē anno Adalwardus tradidit impago ū d̄m̄ in
ulla bannita. mansū. v. y in h̄kalthem y caquad h̄m̄
mansū unū. cū suis adiacentiis y portione suā de silua
in p̄d̄ctis locis. Et mancipia. x̄x̄. Actū bannite.

Ipsō q̄q. tradidit Lanwardus **Lanward.**
meodē pago in bannita. mansū. iij. y manes supra
ip̄of. l̄t̄ in ulla Bechi. mansū unū. y hominē sup̄ ip̄sā.
y in Hauinum simile. y in Oegm̄hardeswib mansū.
y in h̄ofenhei q̄ r̄a partē unū h̄bē. cū suis appendentiis
Et mancipia. xl. iij. Actū bannite. **Waldonif do**

Eodē anno t̄dicit waldo meode pago in loco natio-
nuncupato stillinbahagamundi. h̄bā. iij. cū serū
y uxoribus. y filiis. **Donatio Alfgeri.**

Anno uero. ii. eiusdē regis Ludouici tradidit Alf-
ger impago rexandra siue restar banno in ulla Em-
pele. eccl̄m̄ y mansū unū. y prata. y in h̄n sece. man-
sō. iij. y in h̄aralle mansū dimidiū. y in Dranon terrā
ad modū. x. sementiū. y prata. y in illā silua porcos duo.
y in h̄ofm̄alla mansū pleniū cū prati. y in silua porcos
vi. Et in Herpina mansū pleniū cū prati. y in Angriā
mansū dimidiū. y in Othorol. terrā ad modū. x. y in sil-
uā porcos duo. y prata. Et mancipia. xx. v. In ea ratio-
ne ut sibi ad d̄e fure sup̄ p̄staret. abb̄ eccl̄m̄ in Oar-
uilde. y ad ipsā p̄nente mansō. ii. y in sup̄ mansō. xi.
cū pleno seruitio. y in palerthe mansū in dominiciatū.
y mansō. feruites. v. y mancipia. l. vi. Et p̄b̄nū eī in reg-
res ad sc̄m̄ slabaryū reuerterent. **Donationē hominū**

Ipsō f̄. etiā res quas t̄dicit fr̄nci homines **francoy.**
ad us̄ sc̄i slabary. impago restar banno in ulla Empele.
Lantfr̄d̄ dedit meode loco. eccl̄m̄. y mansū unū.
h̄o dedit mansū unū sup̄ flumiū oesa. in ulla h̄n sare.

Picture 2: Folio 20v. of the Codex Laureshamensis with the donation of Walter and Richlinde in the left side-corner of the first column and the donation of the homines franci in the second column.

3.3.2 The *marca* in the Central Netherlands

In the year 793 AD, Walter and his wife Richlinde donated a farmstead in the *uilla uel marca Uttiloch* (Uddel) as well as properties in the *uilla uel marca* at *Ganitte* (Gendt), *Millinga* (Millingen), *Appoldro* (Apeldoorn), the *uilla Falburcmarca* (Valburg) as well as the unknown *Zegoltmarca* and *Rotherimarca*.²⁵³ In the *Codex Laureshamensis* the term ‘*marca*’ occurs frequently.²⁵⁴ The donation of Walter and Richlinde is in that sense not exceptional.

3.3.2.1 The Mark theory

Lots of commons were indicated by the word ‘*mark*’ in Germany during the nineteenth century.²⁵⁵ Also many commons in the Central Netherlands were called this way.²⁵⁶ For example, common land at Uddel was called the ‘*Mark Uddel*’. The use of the term ‘*mark*’, regardless of its meaning, can be traced back to early the middle ages as shown by the donation of Walter and Richlinde above. In the *Urbar Werthinense* the terms even appears as a vernacular loanword in a Latin sentence: ‘*Liudburg in Hattorpa unam houam et holtmarka in Fliunnia. Landbaerht in Astarloon et holtmarka in Fliunnia.*’²⁵⁷ Nonetheless, the Latinized version, ‘*marca*’, as it is found in the *Codex Laureshamensis*, occurs far more often in early medieval documents.

German philologists, including Jacob Grimm, assumed that the word *marca/mark* had only meaning, namely that of common land.²⁵⁸ 793 is the earliest reference to a *marca* for Uddel. The assumption in a recent study by Tine de Moor, who is a specialist in the history of

²⁵³ CL no I., 99.

²⁵⁴ The *Codex Laureshamensis* returns 1998 hits for the term on a total of 4131 documents. See for a discussion of the term *marca* in the *Codex Laureshamensis*, as a territorial concept, but without going into ‘*das Problem der Markgenossenschaften*’: Fred Schwind, ‘Die Franken in Althessen’ in: Walter Schlesinger (ed.), *Althessen im Frankenreich* (Ostfildern 1975) 211-280. See for a more general introduction to Carolingian sources which use the term *marca*: Roberts, ‘Boundary Clauses’.

²⁵⁵ Brakensiek, ‘The management of common land in north western Germany’ 233.

²⁵⁶ Martens van Sevenhoven, *Marken in Gelderland*.

²⁵⁷

²⁵⁸ Jacob Grimm, *Deutsche Rechtsalterthümer* (Göttingen 1828), 494-497.

the commons, that the ‘*Mark Uddel*’ existed since at least the year 793 AD can only be explained from this standpoint.²⁵⁹

Moreover, the frequent occurrence of the term *marca* in for example the *Codex Laureshamensis* demonstrated according to Von Maurer that common landholding had, in accordance with the accounts of Tacitus and Ceasar, been the norm rather than the exception in the possession of land among early medieval ‘Germans’.²⁶⁰ Other advocates of the Mark theory, however, deflated this extreme interpretation by considering the *marca* to have been an exceptional element in a society in which private property was the norm.²⁶¹ They considered the *marca* to have been a territory in which a number of landowners lived, who owned farmsteads with ‘shares’ to the common lands located in that territory.²⁶²

Nonetheless, the interpretation of the term *marca* as a diachronically stable concept has always remained a centerpiece of the Mark theory. It corroborated the hypothesis that common landownership had been hardwired in the mentality of the Germanic peoples.²⁶³ Influenced by specifically the philological interpretation of Grimm, *marcae*, as mentioned in the donation of Walter and Richlinde, were during most of the nineteenth century seen as direct proof of communal landholding among the inhabitants of the Carolingian Central Netherlands.²⁶⁴ This is a standpoint which many subsequent historians, myself included, have regarded to be highly problematic.²⁶⁵

²⁵⁹ A. Forsman, T. De Moor, R. van Weeren, G. Bravo, A. Ghorbani, M. Ale Ebrahim Dehkordi, and M. Farjam, ‘Eco-evolutionary perspectives on emergence, dispersion and dissolution of historical Dutch commons’, PLOS ONE 15 (2020), 1-21.

²⁶⁰ Von Maurer, *Einleitung* 6, 84, 93.

²⁶¹ Heidinga, *Medieval settlement* 157. The most recent dictionaries to still translate *marca* also as common land are the *Dictionnaire latin des auteurs chrétiens* by A. Blaise and the *Mediae Latinitatis Lexicon Minus* by J. F. Niermeyer. A. Blaise, *Dictionnaire latin-français des auteurs chrétiens* (Turnhout 1967) offers as one possible meaning of *marca*: ‘territoire forestier ou à usage communautaire.’ Niermeyer: ‘wooded or waste area used as a common or as a private estate’ ‘marca’ in: Niermeyer, *Mediae Latinitatis* (consulted online on 23/03/2021).

²⁶² Martens van Sevenhoven, *Marken* 3.

²⁶³ The *marca* was also considered to have meant the institution in which common land was managed as well.

²⁶⁴ Laurens Philippe Charles van den Bergh, *Over den oorsprong en de beteekenis der plaatsnamen in Gelderland* (place of publication unknown 1848), 272-273.

²⁶⁵ Chris Wickham, ‘European forests in the Early Middle Ages: landscape and land clearance’ in: Chris Wickham, *Land and Power studies in Italian and European Social History* (London 1994), 155-199, at p. 188. Dopsch, *The Economic Foundation* 25, 155.

3.3.2.2 The Domanial theory

The advocates of the Domanial-theory instead interpreted the donation of Walter and Richlinde as evidence for their hypothesis that there had only been common usage rights to private land. This theory would have found support in the observation that according to the phrasing of ‘*uilla uel marca*’ the term *marca* had been synonymous with the term *uilla*; which was widely considered to have referred to a domanial estate.²⁶⁶ However, nowadays the correct interpretation of the term *uilla* is even more fiercely debated than the meaning of *marca*. It would go too far here to recapture that debate, but it matters greatly if the *uilla* is interpreted as some kind of domanial estate or instead as a free village-community.²⁶⁷

The proponents of the Domanial theory also argued that the advocates of the Mark theory were wrong to have relied solely on manorial records for their interpretation of the term *marca*; they should also have studied its (rare) appearance in the early medieval law-codes.²⁶⁸ For example, the term *marca* is also found in the *Lex Ripuaria* and the *Lex Baiuvariorum*, where it merely appears to be a substitute for ‘boundary’.²⁶⁹ Moreover, in the latter *leges* also the term ‘*commarcani*’ appears. This term was interpreted by Von Maurer as ‘men who dwelt in the same mark, the same common territory’, but Fustel de Coulanges translated it as ‘men who have the same *marca*, the same *finis*, that is, a common boundary’.²⁷⁰

3.3.2.3 The Scarcity theory

To Karl Glöckner, the editor of the *Codex Laureshamensis*, the term *marca* could be translated as common land in only one of its many occurrences in the manuscript.²⁷¹ In CL 946 it appears

²⁶⁶ Fustel De Coulanges, *The Origin of Property* 42. Critised by Lapsley, ‘The Origin of Property’ 434.

²⁶⁷ Wickham, ‘Rural society’ 529. See for an illuminating discussion of the problem to demarcate ‘villages’ from larger or smaller social communities: Frans Theuws, ‘Early medieval transformations: aristocrats and dwellers in the pagus *Texandria*. A publication programme’, *Medieval and Modern Matters* 1 (2010), 38-71.

²⁶⁸ Fustel De Coulanges, *The Origin of Property* 32.

²⁶⁹ Franz Beyerle and Rudolf Buchner (eds.), *Lex Ribuarica* (MGH LL nat. Germ. III 2), Hannover 1954.

²⁷⁰ Von Maurer on cit. in: De Coulanges, *The Origin of Property* 33.

²⁷¹ ‘Glöckner, *Codex Laureshamensis* III, 361.

as: *marcam de silva*, where it could be read as ‘a share in the usage of the woods’. In all other cases where this term occurred before the tenth century, the term *marca* would, according to Glöckner, just have denoted the jurisdictional territory of a village.²⁷² According to Jaap Buis, the *marca*, as it was used in the *Codex Laureshamensis*, simply meant a ‘bordered area’, a ‘demarcated’ territory.²⁷³

Slicher van Bath, the main advocate of the Scarcity theory, argued that during the early middle ages there had not yet been any meaningful pressure on the resources of wasteland. Naturally, he therefore endorsed the interpretation of Glöckner. According to Slicher, the *marcae* in the donation of Walter and Richlinde did not yet denote common land, but instead a *buurschap*. Moreover, ‘*De schrijvers van deze codex, die in Lorsch verbleven, hadden een grote voorliefde voor het woord mark, dat zij vrijwel achter iedere plaatsnaam zetten.*’²⁷⁴

However, Slicher van Bath did interpret the meaning of *marca*, or *marchia*, from the twelfth century onwards as a term for land in which the exclusive use of wasteland for economic purposes was appropriated by a group of peasants.²⁷⁵ This would mean that the twelfth-century compilers of the *Codex Laureshamensis* retained or inserted a term which in their time had gained the meaning of common land. If so, then it deserves to be studied in the future what the abbey of Lorsch had to gain from inserting or retaining a term with a meaning it did not yet have in the original Carolingian charters.

Regardless, the semantical development of the term *marca* was criticized in the 1908’s by state-archivist Jan Heringa, who argued that the term *mark(e)* had not even during the late middle ages denoted a ‘commons’ or ‘common land’, but rather a territory in which the *buurschap* owned some part of the land in common.²⁷⁶ The implication of this new theory is

²⁷² Karl Glöckner, ‘Bedeutung und Entstehung des Forstbegriffes’, *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 17 (1924), 1-31, 30.

²⁷³ Buis, *Historia Forestis* 35.

²⁷⁴ Slicher van Bath, ‘Studien betreffende’ 50. Slicher van Bath, *Mensch en landschap* I, chapter 3 and 4.

²⁷⁵ Slicher van Bath, ‘Studien betreffende’ 56. Slicher van Bath, ‘Nederlandsche woorden.

²⁷⁶ J. Heringa, *De buurschap en haar marke* (Assen 1982).

that common land emerged much more gradually than the Scarcity theory maintained, and possibly already existed in the vicinity of Carolingian settlements.²⁷⁷

3.3.2.4 Discussion

To summarize, the Mark theory maintained that the term *marca* denoted common land. This meaning would have remained unaltered from the eight to the eighteenth century, akin to how the commons as institutions would have stayed unaffected by the passage of time. The Domanial theory, on the other hand, argued that the meaning of the word had shifted over time and during the early middle ages it would have denoted the territory of a domanial estate. The Scarcity theory also argued for a semantical development of this term, but it did not consider it to have meant a domanial estate during the early middle ages. Instead, the term would have been used to indicate the territory belonging to a *buurschap*, consisting of all those who lived in a village, not only those with rights to common land.

However, recent scholarship has shown that the term '*marca*' was used in various ways during the early middle ages, but usually as an ambiguous and broad signifier for an area of some sort with borders.²⁷⁸ Whether in particular cases it denoted a domanial estate or a *buurschap* is difficult to ascertain, but the idea that the *marca* had a singular meaning of common land, which remained stable throughout history, can be disregarded. However, if *marca* never signified common land in particular, then we are left with the term *silva communis* as the only specific marker for common land.

²⁷⁷ Theo Spek, *Het Drentse esdorpen-landschap Een historisch-geografische studie* (Utrecht 2004), 102-104.

²⁷⁸ See for example: A. Stieldorf, 'Die Raumbezeichnung *marca* in früh- und hochmittelalterlichen Königsurkunden', *Sprachwissenschaft* 39 (2014) 3, 317-342.

3.3.3. The *silva communis* in *Testarbant*

The scribe of record number CL I. no. 106 blended several donations in one short enumeration of what I suppose to have been around ten original charters or more.²⁷⁹ It transmits the donation of properties by thirteen *homines Franci* of whom two are noted to have donated a *silva communis*: one in Maren along the Maas and one in Rosmalen. One common factor which these separate donations share, is that all the donated properties are located in Maaskant and the Neder-Betuwe, a region which went by the name of *Testarbant*. Moreover, the transactions themselves are stated to have occurred in the *uilla Empele* (Oud-Empel, next to s-Hertogenbosch), which appears to have been the centre of multiple domanial estates.²⁸⁰

Problematically, CL 106 has not been given a date by the compiler. This may indicate that the possessions were originally donated at different occasions. The other possibility is that these individuals donated their possessions independently, but all at the same occasion. The fact that all the transactions are stated to have occurred in Empel hints in this direction. If so, then two possible occasions stand out: one in 815 AD and one in 969 AD.²⁸¹ For now, I will assume that CL I no. 106 transmits ninth century donations, but further research into this charter's creation is merited.

²⁷⁹ CL I no. 106.

²⁸⁰ Goosmann, 'Aristocratic Exploitation' 32, 34.

²⁸¹ In CL I, no. 105, which is dated to 815 AD, the Abbey of Lorsch received from a certain Alfger a *manus* and a church in Empel. This is transmitted by a *notitia* which directly precedes CL I, no. 106, and from the fact that they convey for a large extent the same properties we could possibly infer that there was some kind of relationship intended between these two *notitiae*. On this relation see: Harenberg, 'De homines franci', 40 on cit. in: Van der Tuuk, 'Deense heersers' 11. Fustel de Coulanges even interpreted it as one donation. Fustel de Coulanges, *The origin of property* 45. It has been argued by Goosmann that a tenth century 'Empel dossier', which among other records included the *notitiae* of CL 105 and CL 106, may have been composed in the context of a property dispute in order to verify and strengthen the abbey's claim. Goomann, 'Aristocratic exploitation' 32. Alternatively, the decision of the council to validate the rights of the *Abbey of Lorsch* could perhaps have evoked the donations of CL 106 as the benefactors now committed themselves to St. Nazarius as the victor of the dispute.

3.3.3.1 Mark-theory

Von Maurer considered the term *silva communis* in Maren and Rosmalen to have meant a *Gemeinschaftswald*.²⁸² This interpretation is also adopted in a modern German translation of the *Codex Laurehamensis*.²⁸³ However, unlike his interpretation of the term *marca*, he based this interpretation also on its appearance in other contemporary genres, most importantly its occurrence in chapter 79 (/76) of the *Lex Ribuaria*. This chapter states that anyone who takes away ‘marked’ (*signata*) timber or firewood which he does not own in the *silua commune sue regis uel alicuius*, is liable to a fine.²⁸⁴ Recently, medievalist Eric J. Goldberg interpreted this passage akin to Von Maurer as that it specified three different types of woodland.²⁸⁵ Those belonging to a private person (*alicuius*), the king (*regis*) or to the local community (*commune*).²⁸⁶ The separation of woodland in distinct legal classes would prove to existence of common land.

3.3.3.2 Domanial-theory

Fustel de Coulanges acknowledged that the *silva communis* in Rosmalen and Maren was actually a rare example of land held in common by a number of proprietors.²⁸⁷ However, he argued that there was no reason to suppose, as Von Maurer had, that these common woods had been open to the whole village, though he also remarked that the term *communia* was usually only from the thirteenth century onwards used to denote a group of peasants.²⁸⁸

E.J. Harenberg came up with a more critical standpoint. He proved that CL 105 and CL 106 recorded the same properties. According to him these *homines Franci* did therefore not

²⁸² Von Maurer on cit. in Fustel de Coulanges, *The origin of property* 45.

²⁸³ Karl Josef Minst, *Lorscher Codex: deutsch; Urkundenbuch der ehemaligen Fürstabtei Lorsch* (Lorsch 1966-1972), 159.

²⁸⁴ *Lex Ribuaria*, Franz Beyerle and Rudolf Buchner (eds.), MGH LL nat. Germ. III 2 (Hannover 1954).

²⁸⁵ Eric J. Goldberg, *In the Manner of the Franks: Hunting, Kingship, and Masculinity in Early Medieval Europe* (Philadelphia 2020), 52

²⁸⁶ Von Maurer, *Einleitung* 86.

²⁸⁷ Fustel de Coulanges, *The origin of property* 45.

²⁸⁸ Fustel de Coulanges, *The origin of property* 52.

own the full rights to the endowed common woodland as these rights belonged to the inheritance of the aristocrat Alfger who donated in CL 105 extensive properties in *Tersterbant* to the Abby of Lorsch.²⁸⁹ If Harenberg is correct, then the rights to the *silva communis* at Maren and Rosmalen ought to be interpreted as usage rather than common property rights. This view also fits to opinion of historian Ludolf Kuchenbuch, who stated that the examples of a *silva communis* in the Prümer Urbar, was the ‘*obereigentum*’ of some landlord.²⁹⁰

3.3.3.3 Scarcity theory

The hypothesis of the Scarcity theory is that forest resources were still in abundant supply during the Carolingian period, which explains the absence of common property and usage rights as there was no need to restrict the extraction of forest-resources.²⁹¹ However, as far as I know, the advocates of the Scarcity theory have never dwelled on the meaning of the *silva communis* at Rosmalen and Maren. Still, in a point of view at least fitting to the Scarcity theory, medievalist Jamie Kreiner interpreted the term *silva communis* more generally as public woodland with its resources ‘open to anybody without restriction.’²⁹² Yet, this stance is difficult to reconcile with one of the few certainties relating to the *silva communis* at Rosmalen and Maren, namely the fact that some kind of rights to these forests were donated to Lorsch.

3.3.3.4 Discussion

The *silva communis* at Rosmalen and Maren are the more plausible pieces of evidence for the existence of common land in the Carolingian Central Netherlands. On the other hand, that might also be attributed to the fact that we know very little about these woods. Nevertheless, I see a fruitful area for further work in connecting these hypothetical common woodlands in *Testarbant* to the evidence for the *silva communis* of *Suifterbant*. Especially if Liudger, son of

²⁸⁹ Harenberg, ‘De homines franci’, 40 on cit. in: Van der Tuuk, ‘Deense heersers’ 11.

²⁹⁰ Kuchenbuch, *Bäuerliche Gesellschaft* 116.

²⁹¹ See chapter 2, section 2.3.

²⁹² Though ‘supervised by the Crown’, see: Kreiner, ‘Pigs in the Flesh’ 33.

Hredgaer, can be identified as a *homo Francus*, a patterns would emerge of *homines franci* as commoners. Since some have interpreted the *homines Franci* as colonists who were settled on royal wasteland to farm and defend the marches, it could perhaps be speculated that in such circumstances, where no-one had the rights to land, a division of the local woodland and wasteland in shares of wood-pasture could have taken place.

3.4 The Urbar Werthinense

In the previous sections, the terms *marca* and *silva communis*, two words arguably denoting common land as a physical territory, were examined. This section explores, in contrast, the ways in which individual entitlements to common land were phrased by the inhabitants of the Carolingian Central Netherlands. More specifically, the correct meaning of the term *scaras*, which appears across the Veluwe, forms the starting point of this investigation. Let us therefore turn to its source: a land and income register of the Abbey of Werden, known as the *Urbar Werthinense*.²⁹³

3.4.1 Context and background

The *Urbar Werthinense* consists of forty parchment folia, written in a single column in a Carolingian minuscule. The dimensions of these folia measure on average 205 mm x 155 mm.²⁹⁴ The fact that it is written by multiple hands makes the hypothesis that this text was created over multiple decades viable. In fact, its editor Rudolf Köttschke identified four separate parts (A1 to A4), which he considered to have been worked on the document at separate moments in time.²⁹⁵ A1 and A2 have been paleographically dated to the beginning of the tenth, or possibly the end of the ninth, century, and A4 is dated to the end of the tenth century.²⁹⁶ Its oldest part (A3), which is on the basis of its content dated between 877 and 890 AD, is considered to postdate the creation of the *Cartularium Werthinense*.²⁹⁷

²⁹³ Landesarchiv NRW Abteilung Rheinland, Werden, Akten AA 0546, Nr. 9 - a 1 a. Formerly: Düsseldorf, Nordrhein-Westfäl. Hauptstaatsarchiv, A 88.

²⁹⁴ Elke Krotz and Stephan Müller, 'Paderborner Repertorium der deutschsprachigen Textüberlieferung des 8. bis 12. Jahrhunderts' *Zeitschrift für deutsches Altertum und deutsche Literatur* 137 (2008), <https://handschriftencensus.de/22116#cKodikologie> (consulted online on 10/02/2021).

²⁹⁵ Köttschke, *Die Urbare* 5.

²⁹⁶ Christof Spannhoff, 'Zur Datierung des ältesten Werdener Urbars (A)', *Nordmünsterland. Forschungen und Funde* 2 (2015), 192-199, at p. 195.

²⁹⁷ Although this *urbarium* is generally considered to be a couple of decades younger than the *cartularium*, it could have been created as a complementary record. The *cartularium* compiled the abbey's legal rights over land, while the *urbarium* was more focused on the abbey's rights over men and livestock. Together, they seem

Here, only A1 is examined, which has been estimated to have been created shortly after the year 890 AD.²⁹⁸ Medievalist Stefan Esders believes that this part of the *Urbar Werthinense* was created in the wake of the unstable situation following the Viking invasions in the Central Netherlands and the Rhineland.²⁹⁹ But a possible alternative reason for compiling a record of payments owed to the abbey at this time was the abbey's new obligation of *servitium regis* from the late-ninth century onwards.³⁰⁰

Within A1 we will examine a heavily altered copy of a charter dated to the year 855 AD, which was originally written by a subdeacon named Hilderic. The study of this charter is complicated by the fact that either the original charter, or its copy in the *Urbar Werthinense*, merges the donations of two separate legal transactions into one. The first transaction consists of a detailed list of various properties in the Veluwe and the Betuwe, regions in which the rights to these properties had been inherited in conformity with the *Lex Ribuarica* and the *Lex Salica*. The second part contains an enumeration of rights to pastureland in *Frisia* (Noord-Holland, Friesland and Groningen), which would have been acquired in conformity with Frisian customs (*ewa Fresonum*) of inheritance.³⁰¹

The charter reveals frustratingly little about the identity of the generous benefactor, apart from his name 'Folker', which has led to much speculation with regard to his background. As his patrimony consisted of an extensive list of properties, Folker has foremost been conceived of as having belonged to the highest aristocracy in the Carolingian Central Netherlands, and perhaps even to a supra-regional elite.³⁰² Nonetheless, as far as we know he did not fulfill any public office in Carolingian government.

to have formed a comprehensive account of the rights and due belonging to the abbey. Rudolf Kötzschke, (ed.), *Die Urbare der Abtei Werden a.d. Ruhr (A: Die Urbare vom 9.-13. Jahrhundert)* (Bonn 1906), 4.

²⁹⁸ Kötzschke, *Die Urbare*, 4-45, at specifically p. 8-15. Spannhoff, 'Zur Datierung' 197.

²⁹⁹ Esders, 'Vernacular Writing' 381.

³⁰⁰ J. W. Bernhardt, *Itinerant Kingship and Royal Monasteries in Early Medieval Germany, c.936-1075* (Cambridge 1993), 181-183. It meant that a substantial proportion of the abbey's yearly income was expected to be rerouted to the royal treasury.

³⁰¹ Kötzschke, *Die Urbare* 9.

³⁰² Heidinga, 'From Kootwijk' 30.

IN NOMINE DNI dī gl'ri, & saluatoris nri ihū xpī. Ego
folckerus / incertū unicuiq; huius miserabilis uite finem
& horam p̄mescens, uariosq; a comnibus sinistris in
stantis temporis euentus considerans, et saluatoris
dici recordans, quod dicit; Si uis p̄fectus ēē, uade & uen
de omnia quę habes & da pauperibus, & ueni sequere me.
omne huius uite delectationem, quantū humana fra
gilitas sinit, p̄ dī omnipotentis amore / p̄ nihilo du
cent, in coenobio uerdinensi, ad beati confessoris xpī
memoriam, monachicā elegi ducere uitam. Qua p̄p̄t,
quia unicuiq; necessarium est, ut quamdiu in hoc secu
lo uiuere licet, de temporalibus rebus sibi eterne bea
titudinis premia adquirere studeat. Ego quasdam
p̄p̄rietas meae res, quę mihi iure hereditario in
pago hamulande, in comitatu uuigmanni, nec non
& in batuue, in comitatu ansfridi, cum edificiis om
nibus, & cunctis adiacentibus siluarū, & aquarum /
& pascuarū commodis, cultam & incultam & incultam
terram, cum mancipiis utriusq; sexus, coram
testibus / et nobiliū uirorū presentia, secundū legem
ripuariam, et salicam, nec non secundū cūa fresonū,
de iure & potestate mea, in ius & p̄p̄rietatē p̄ dicti
monasterii, in quo & laicalem habitū, & secularē
conuersationē dño miserante dimisi, p̄ medio anu

Picture 3: The first folio the *Urbar Werthinense* of the vast donation of property by Folker to the abbey of Werden in the year 855 AD.

3.4.2 The *scaras* in *Felua*

In 855 AD, Folker donated his share of the inheritance to the Abbey of Werden, This included, but was not limited to, three lordly estates (*mansos dominicales*) on the Veluwe.³⁰³ In this region he also donated twenty-eight *scaras* in the woods (*silva*) called *Puthem* (Putten), as well as sixty *scaras* in the *silva* belonging to the *villa Irminlo* (Ermelo). In *Thri* (Drie) he donated a pasture for thirty-five pigs and in the nearby wasteland (*saltu*) he gave the reclamation (*comprehensionis*) he owned. The list of properties across the *pagus Felua* was concluded with the donation of a sixth part (*sextem parti*) of seven individually named woodlands. Further on there is a statement that Folker owned the ‘previously mentioned properties in common with my co-heirs’ (*commune cum heredibus meis superiorem uero propriam possideo*).

3.4.2.1 Mark theory

Niermeyer interpreted the *scaras* in Puten and Ermelo as quantifiable shares in common woodland. Probably from the thirteenth century onwards, such shares to common woodland were also known as *scharen*.³⁰⁴ Of course, according to the Mark theory, the term *scara* would already have acquired this meaning during the early middle ages. In fact, there are additional reasons to suppose that a *scara* denoted shares in a *silva communis*.

First, the limitation of wood-pasture to a certain number of pigs is an indication in itself. The reasoning is simple: the limitation of the number of pigs that one is allowed to pasture suggests that every household had only a limited share in the wasteland. Secondly, if a *scara* is a portion of wood-pasture, it would imply that there are others with comparable portions of wood-pasture.

³⁰³ Kötzsche, *Die Urbare*, 8-15.

³⁰⁴ ‘scara’ in: Niermeyer, *Mediae Latinitatis* (consulted online on 23/03/2021). Hoppenbrouwers, ‘The use and management’ 93.

Although we do not know of anyone else with pannage-rights in Putten or Ermelo, we know that in other places across the Veluwe woods were similarly divided, though these divisions were phrased in different wording. For example, Gerward exchanged in 814 AD his *portionem de silua in Suornom, et in Dubridun, et in Burlohe, et silua in Hasle*, and a certain Hrodulf exchanged a portion of his inheritance in *Engelandi* (Engelanderholt on the Veluwe), namely a *curtile* with a twelfth part in the local wood-pasture.³⁰⁵

While the proponents of the Domanial theory have argued that these portions indicate portions of an undivided heritage, such as the sixth part of woodland Folker donated, the advocates of the Mark-theory maintain that these portions of woodland indicate shares in common woodland. This assumption seems to be corroborated by the fact that shares to woodland were not always divided amongst kinsmen, as demonstrated by an intriguing record in the *Cartularium Werthinense*. Under the rubric ‘wood-shares in Werden’ (*De holtscara in UUiti*), as much as sixteen unrelated benefactors are noted to have bequeathed the abbey with their *scaras* in the woods around the Abbey of Werden (see picture 1).³⁰⁶

3.4.2.2 Domanial theory

The best example to support the hypothesis of the Domanial theory derives from another section of A1 of the *Urbar Werthinense*, in which a certain Adalbrath donated in the *forsti* called *Fliunnia* (Vluyn in the German Rhineland) the same amount of pigs his coheirs (*coheredes*) drove into this forest.³⁰⁷ However, the advocates of the Domanial theory also came

³⁰⁵CL I nr. 101. Blok nr. 25. Blok, *Franken in Nederland* 86.

³⁰⁶ It has been dated to c. 836 AD. Some of these donations can also be found in the charters of the cartulary, but not all. *Vice versa*, not all donations of wood-pasture in the woods around Werden which are encountered in the charters of the cartulary, are also to be found in this enumeration of wood-shares. How this *notitia* ended up between the charters of the cartulary is puzzling. Köttschke presumed that it was written in an empty spot in the manuscript after the production of the cartulary had been finished. However, a more likely possibility is that it was purposefully included during the production of the manuscript, because the *notitia* was also included in the manuscript’s original table of contents. Köttschke, *Die Urbare* 3. Table of content published in: Tiefenbach, ‘Zu den Personennamen’ 299-301.

³⁰⁷ Köttschke, *Die Urbare* 20.

up with an alternative way to explain the meaning of the term *scara*, apart from indicating undivided property.³⁰⁸ This new idea was derived from the theory of the German historian Karl Rübel, who believed that the term *marca* in ninth-century Saxony indicated a newly imposed territorial division by the Frankish state.³⁰⁹ According to Dopsch, the word *scara* derived from an ancient Greco-Roman term and practice to divide wasteland which had been appropriated by the king:

‘The setting of bounds to the Mark was the technical means of establishing the royal claim to the *eremus*. The order to define the mark (*marcas scarire*) proceeded from the king, and was carried out by expert officials according to the principles of triangulation, so that use was chiefly made of natural boundary lines such as springs and brooks, while in wooded districts pine-trees with signs carved on them (a cross), and in the mountains watersheds (ridges and summits), were employed.’³¹⁰

Consequently, the term *scaras* in the Central Netherlands would not have derived from a local Germanic vernacular, but have been inspired from the technical Latin term *scarifus* which was used in the *Agrimensores* to indicate a field-map.³¹¹ In this alternative interpretation of the Domanial theory, the term *scara* came thus to mean quite the opposite of common land, namely an individually owned piece of royal woodland.

3.4.2.3 Scarcity theory

The Scarcity theory, on the other hand, believing that natural resources had been plentiful during the Carolingian period, saw no need for restrictions on the exploitation of wasteland or woodland. Nevertheless, its proponents conceded that with the term *scaras* restrictions in the exploitation of the forest were meant. Slicher van Bath, the main advocate of the Scarcity theory, even translated the term *scara* in our excerpt initially as: ‘*a share in the mark; piece of*

³⁰⁸ Dopsch, *The economic foundation* 146, 153.

³⁰⁹ Karl Rübel, *Die Franken, ihr Eroberungs und Siedelungs system im deutschen Volkslande* (Bielefeld 1904).

³¹⁰ Dopsch, *The economic foundation* 153.

³¹¹ Dopsch, *The economic foundation* 153.

land of undefined size, which was needed to pasture one full grown animal in the common pasture'.³¹²

Nonetheless, they did not believe that these limitations had been prescribed by other landowners to ensure that there was enough pasture for all commoners. Instead, they assumed that these restrictions had been imposed by the local landlord to protect the undergrowth from overexploitation, which would ruin his hunting prospects.³¹³ One advocate of the theory also reasoned that the presence of such restrictions was insufficient to postulate the existence of common land.³¹⁴

3.4.2.4 Discussion

The meaning of the vernacular loanword *scara* in the excerpt above has proven to be elusive. The word itself, it has been argued, derived from an Indo-European root meaning 'cut', and consequently in many derivative languages it would have retained this primary meaning: 'portion' or 'share'.³¹⁵ From at least the twelfth century AD, the term *scar(a)* is considered to mean the number of grazing animals which one could legitimately pasture on common land.³¹⁶ Whether it had already acquired this meaning in the Carolingian period remains uncertain.

Interestingly, in the most comprehensive analysis of the term to date, historian Christine Grainge offered an entirely different interpretation of the term *scara* in the Carolingian period. After analysing all the Urbars and the cartularies of Werden, Prüm and Weissenburg, she decided on a meaning that resembles the meaning of *comprehensionem*: namely a carved-out portion of individually owned land in public or common wasteland.³¹⁷ But this interpretation

³¹² 'Scara' in: Slicher van Bath, 'Nederlandsche woorden', 134.

³¹³ Slicher van Bath, 'Studien betreffende' 52.

³¹⁴ Buis, *Historia Forestis* 36.

³¹⁵ Christine Grainge, 'Assarting and the Dynamics of Rhineland Economies in the Ninth Century: Scarae at Werden, Weissenburg and Prüm Abbeys' *The Agricultural History Review* 54 (2006) 1, 1-23, at p. 23.

³¹⁶ 'scharen' in: 'Instituut voor de Nederlandse taal, Historische woordenboeken Nederlands en Fries' (2018), <https://gtb.ivdnt.org/> (consulted online on 03/12/2020).

³¹⁷ Grainge, 'Assarting' 15-23.

also remains highly speculative. Perhaps the term *scaras* was not used to indicate a piece of common land, undivided heritage or a parcel of granted royal wasteland, but simply a measurement of a piece of forest in the number of pigs it could feed.

3.5 Summary

Due to the large degree of multilingualism in the Carolingian Central Netherlands, as well as the particularities of translating the local vernacular into Latin, it was assumed at the beginning of this chapter that common land, if it had indeed existed, was not consistently indicated by a single term. Nonetheless, the terms *marca*, *silva communis* and *scara* have previously been interpreted as indicators of common land or, in the case of *scara*, as a share of common land, but alternative interpretations have also been forwarded for these terms.

The *silva communis* is a nebulous term. Specifically in the case of *Suifterband*, it is my guess that it was called ‘common’ because the local peasantry was entitled to reclaim a part of it, which as a cultivated piece of land then turned into private property. The meaning of *silva communis* at Rosmalen and Maren remains unclear and needs to be further studied. The correct interpretation of the terms *marca* and *scara* resolves to a large extent around the question if their meaning of ‘common land’ and ‘share to common land’ had already been acquired in the Carolingian period. In the case of *marca* it has, in my eyes, been proven that it had not, but this remains undecided in the case of *scara*.

Finally, many scholars working within these three paradigms have sought to corroborate the premisses of their paradigm by providing an interpretation of these terms which proved only their theory to be right. In doing so they often disregarded the high degree of uncertainty that surrounded their interpretation. Moreover, they tried, perhaps overly hard, to extract a consistent meaning from the various occurrences of these terms, but I think we ought

to consider the possibility that medieval scribes used these terms much more liberally than modern scholars would like to think.

Chapter 4: Archaeological sources

4.1 Between evidence and proof

The previous chapter concluded that early medieval scribes may have been quite inconsistent in their usage of terms denoting common land. However, the difficulty to determine the existence of common land for the Carolingian Central Netherlands can also be ascribed to the scarcity of the written source material. As a result, all evidence in support of the hypothesis is purely anecdotal, making all derivative arguments for its existence highly speculative. Already in the early decades of the twentieth century it was remarked that the presence of common land in the Carolingian Central Netherlands had never been proven by the Mark theory, but at the same time it had also not been invalidated by the Domanial theory.³¹⁸

According to Willem Iterson, who published the first systematic historical analysis of the distribution of property rights to land in the province of Utrecht, the Domanial theory had above all shown that the evidence and reasoning of the Mark theory was faulty. Also, the Domanial theory had arguably showed, that there was no empirical evidence for the existence of commons before the twelfth century.³¹⁹ However, Iterson also empathized that Fustel de Coulanges, the earliest advocate of the Domanial theory, had not intended to disprove the hypothesis of the existence of common property in the early medieval period.³²⁰

As a pioneer in the brand-new academic field of medieval studies, Fustel de Coulanges was above all concerned with establishing the principles of source criticism and historical

³¹⁸ Willem Iterson, *De historische ontwikkeling van de rechten op de grond in de provincie Utrecht* (Leiden 1932), 685-686.

³¹⁹ Iterson, *De historische ontwikkeling* 686.

³²⁰ Iterson, *De historische ontwikkeling* 686.

methodology in order to make medieval history a full-fledged field of study in academia.³²¹ As a French patriot, however, he gladly chose to condemn the epistemological basis on which the existence of communal property-holding had been postulated by German scholars.³²² Regardless, with his Domanial theory, Fustel de Coulanges did offer an alternative hypothesis for the emergence of commons. However, as Willem Iterson reasoned, to ‘disprove the hypothesis of common land in the early middle ages’ or to declare ‘that this hypothesis has not been proven’ are two entirely different things.

One reason why the existence of common land can not be invalidated is because our sources are most likely too biased to offer a representative image of the various customs of landholding.³²³ First of all, the exchange of landed property, in addition to its recording in writing, functioned adjacent to established customs, of oral transmission. According to these customs, rights to land could perhaps only have been inherited, as opposed to being sold, exchanged or bequeathed.³²⁴ Although this hypothesis is highly speculative, it deserves to be studied further, especially in situations where the benefactor’s family continued to exploit land that had technically become ecclesiastical property.³²⁵

Secondly, the available documentation favours the property claims of ecclesiastical institutions. Most of these institutions could have capitalized at some point during their later history on the portrayal of their ‘ancient’ Carolingian endowments as having been definitive and with full and exclusive rights to land. But in the past decades, medievalists have become aware that the exercise of legal jurisdiction in the early middle ages was fundamentally different from the exercise of such power in the late middle ages. Most importantly, in the late

³²¹ Fustel De Coulanges, *The Origin of Property* 10-11, 23, 29.

³²² See for the fascinating background of the development of the Domanial theory in the context of the nineteenth century French-German rivalries: Hummer, *Visions of Kinship* 11-56.

³²³ Innes, *State and society* 71. Iterson, *De historische ontwikkeling* 756.

³²⁴ Daniël Augustinus Gerrets, *Op de grens van land en water: dynamiek van landschap en samenleving in Frisia gedurende de Romeinse tijd en de Volksverhuizingentijd* (Groningen 2010), 195-196.

³²⁵ Innes, *State and society* 47-49. Goosmann, ‘Aristocratic exploitation’ 28-29. Annette Weiner, *Inalienable possessions: the paradox of keeping-while-giving* (Berkeley 1992).

middle ages, legal authority was based on territorial lordship, meaning that jurisdiction befell the owner of the land on which people resided, whereas in the early middle ages the exercise of power was much more personal, as it was based on patron-client relationships.³²⁶

Moreover, in the early middle ages the legal aspect of the transmission of rights to land seems often to have been of subordinate importance to the social and spiritual value of the exchange. Thus Carolingian cartularies, such as the *Cartularium Werthinense*, are argued to have functioned as symbolic mementos of ceremonial act(s), in which the eternal bond between the patron of the abbey and the donor mattered primarily. Land was according to Innes: ‘a medium with which politically important *relationships* were created, as well as the basic economic resource. Carolingian society was based on the creation and manipulation of these types of *relationships* [my accentuation].’³²⁷

Having analyzed the historiographical debate (chapter 2) and the primary written sources for the Carolingian Central Netherlands (chapter 3), I have concluded that the question whether common land existed or not can not be answered. Therefore, it follows that any given answer in favour or opposition of the hypothesis is per definition a concession to the ‘historical method’. This method requires the historian to select the most relevant evidence (as evidence which ‘is most nearly immediate to the event itself’) in order to answer the research question.³²⁸ In other words, those who wish to write on the subject are compelled to speculate on the basis of additional sources.

Within the historiographic debate, four devices can be recognized which have been applied in varying combinations in order to expand the limited source corpus.³²⁹ The written source material can be broadened: (1) geographically, (2) diachronically, (3) thematically and (4) cross-disciplinary. For example, the advocates of the Mark theory chose to extrapolate

³²⁶ Bijsterveld, *Do ut des* 57.

³²⁷ Innes, *State and society* 93.

³²⁸ David Hackett Fischer, *Historians' fallacies* (New York 1970) 62-63.

³²⁹ Blok, *De Franken* 7-10.

chronologically by investigating written sources from the high and late middle ages. At the same time, their colleagues working within the Domanial theory chose to generalize geographically by examining the written sources for the Parisian basin and by mixing those with contemporary source material from as far out as the Elbe and the Pyrenees. The advocates of the Scarcity theory on the other hand, chose to expand the corpus thematically by including economic theories and macro-variables, such as population numbers, into the picture.

In at least three of the inferential devices described above looms a fallacy of historical reasoning. By extrapolating over time, one's argument runs the risk of becoming an anachronism. For example, it is highly dubious if the meaning of the late medieval term *mark*, can be equated to the early medieval connotation of the term *marca*. Or that the right to veto the arrival of new villagers, as described in the *Lex Salica*, can be used to illuminate Tacitus' description of supposed Germanic communalism in his *Germania*.³³⁰ On the basis of such argumentation, the presence of common land in the early middle ages should not be postulated.³³¹

Geographical extrapolation, as an alternative, also runs the risk of overgeneralization. For example; although Latin terminology such as *mansus* or *uilla* can be encountered in the written sources for different parts of Carolingian Europe, the bipartite estate system as it functioned in the Parisian basin is unlikely to have been organized in the same way in the Central Netherlands. Differences in the natural and socio-economic landscape have so far resisted any standardization. The absence of common land in the Central Netherlands can therefore not be assumed from its absence elsewhere.

Moreover, the choice to expand the source material thematically, as in the Scarcity theory, is in danger of becoming a circular-argument. According to the Scarcity theory,

³³⁰ *Lex Salica* Title XLVI. K.A. Eckhardt (ed.), MGH Leges nat. Germ., 2 vols. (Hanover 1957-1959).

³³¹ Langlois and Seignobos, *Introduction* 144. Exhaustively discussed in Murray, *Germanic Kinship Structure* 68-70.

commons emerged as a response to a scarcity of resources. Therefore, I would argue that the shortage of forest-resources, which its advocates have inferred from the appearance of the term *scaras* at Putten and Ermelo, must therefore also be interpreted as fulfilling the main condition for the presence of common woodland.³³²

4.2 Archeological sources

A largely neglected device in the study of early medieval commons has been the use of cross-disciplinary studies, such as toponymy and, more importantly, archaeology.³³³ This is a pity, because especially archaeological sources can corroborate certain premisses or shine new light on property allocations within the social structure of settlements.³³⁴ The overwhelming absence of archaeological sources in most studies to early medieval common land, must probably be attributed to the fact that the identified paradigms, were advanced when the field of early medieval settlement archaeology was still in its infancy.³³⁵

Before we move on to examine in a nutshell the archaeological sources for the presence or absence of common (landed) property, the uncertain nature of archaeological inferences needs to be emphasized the reader who is not well-versed in archaeology.³³⁶ Many factors determine where and under which conditions traces of Carolingian settlements across the Central Netherlands have been discovered and made public. For example, the type of soil, the likelihood of post-Carolingian habitation, but also the selected excavation-methods and

³³² Buis, *Historia Forestis* 36.

³³³ For contrast, the British archaeologist Susan Oosthuizen made a career in early medieval archeology with a special focus on the archeology of common land in Anglo-Saxon England. See for example: Susan Oosthuizen, 'Archaeology, common rights and the origins of Anglo-Saxon identity', *Early Medieval Europe*, 19 (2011), 153-81. Linguist Jozef Van Loon offered a hypothesis for the existence of common land across the Carolingian Central Netherlands based on the particle *lo in early medieval toponyms. See: Jozef van Loon, *Lo, Donk, Horst Taalkunde als sleutel tot de vroege middeleeuwen* (Gent 2018), 12. Criticized by: Laurant Toorians, 'Review: Jozef Van Loon, *Lo, Donk, Horst. Taalkunde als sleutel tot de vroege middeleeuwen*', *Francia recensio* (2018) 2, 1-3.

³³⁴ Guy Halsall, 'The sources and their interpretation' in: Paul Fouracre (ed.), *The New Cambridge Medieval History* (Cambridge 1995) 1, 56-90, at p. 84.

³³⁵ Halsall, 'The sources' 83.

³³⁶ Heidinga, *Medieval settlement* 14-17.

publication practices.³³⁷ While it is unnecessary to inform the reader of all the inherent biases in the archaeological record, it must be noted that generally speaking the presence of artefacts or settlement-traces is more meaningful than their absence.

Noteworthy archaeological indicators are: the spatial distribution of farmsteads in nucleated settlements, the presence of open fields and communal cemeteries, church buildings and mills, as these may have worked towards the creation of a collective identity and a greater solidarity between settlers.³³⁸ Perhaps even more valuable archaeological indicators are the remnants of enclosures and wells. Their number and spatial allocation within a settlement, can cast light on a settlement's social organization. Of course, these indications come with their own set of problems, as shall be briefly explained below.

4.2.1 Enclosures

The presence or absence of enclosures within nucleated settlements, such as a fence around the precincts of a homestead is often worth noting as it may indicate the degree of property privatization within a settlement.³³⁹ Nonetheless, the archaeological uncovering of fences betrays first and foremost the presence of a pastoral element in the economy of any rural settlement, as fences functioned primarily to keep animals in, or out, certain areas.³⁴⁰ But there is more to it according to archaeologist Johan P. W. Verspay:

‘By repeatedly interacting with ones surroundings, people will internalise its form and structure. Therefore, even when this might not have been a determining factor when enclosing fields with ditches, the message of private property and individuality will be enhanced by it. [...] Thus intended or not, the structure of the landscape had an effect on the mentality and social relations of people.’³⁴¹

³³⁷ Kemme, *A different perspective* 53-74.

³³⁸ Van Bavel, *Manors* 94.

³³⁹ Georges Duby, *The Early Growth of the European Economy. Warriors and peasants from the seventh to the twelfth century* (New York 1974), 22, 35.

³⁴⁰ Heidinga, *Medieval Settlement* 88.

³⁴¹ Johan P. W. Verspay, ‘Structuring landscape, shaping community’ in: Jan Klápště (ed.), *Agrarian technology in the medieval landscape* 10 (Turnhout 2016), 247–254, at p. 253.

In early medieval law codes, enclosures around the fields of peasants and the barriers around peasant farmsteads were much more than a physical obstacle.³⁴² These enclosures also defined the exclusive property of a landowner and the legal boundaries of the precinct of a farmstead, which was privately owned.³⁴³ Trespassing such a barrier without permission was punishable, also in the Carolingian Central Netherlands.³⁴⁴

In extraordinary cases, the absence of barriers at a site might mean that its inhabitants lacked the legal concept of individually owned land, although the possibility must always be accepted that such barriers simply left no trace in the archaeological record. Alternatively, the actual absence of barriers at a settlement may also mean that the demarcation of private possessions was less necessary because the whole place was owned by one family or person. Extended families could also easily inhabit multiple farmsteads, and these farmsteads could even lay intermingled with the cottages of slaves and servants, who were without claims to landed property.³⁴⁵ To conclude, just from the presence or absence of barriers, the existence of common or private possessions can not unproblematically be inferred.

4.2.1 Wells

From its location in the settlement, for example when farms are clustered around the well, it is usually possible to determine the likelihood that a well was used collectively by the inhabitants of multiple farmsteads. In those cases when the number of excavated wells is significantly less than the number of excavated farmsteads, the communal use of a well and perhaps the acknowledgment of the public or common nature of common pool resources may occasionally be inferred.³⁴⁶ Similarly, from those cases when every precinct in a settlement has its own well,

³⁴² The classic study is by: Hildegard Dölling, *Haus und Hof in westgermanischen Volksrechten* (Münster 1958): Hamerow, *Early Medieval* 38.

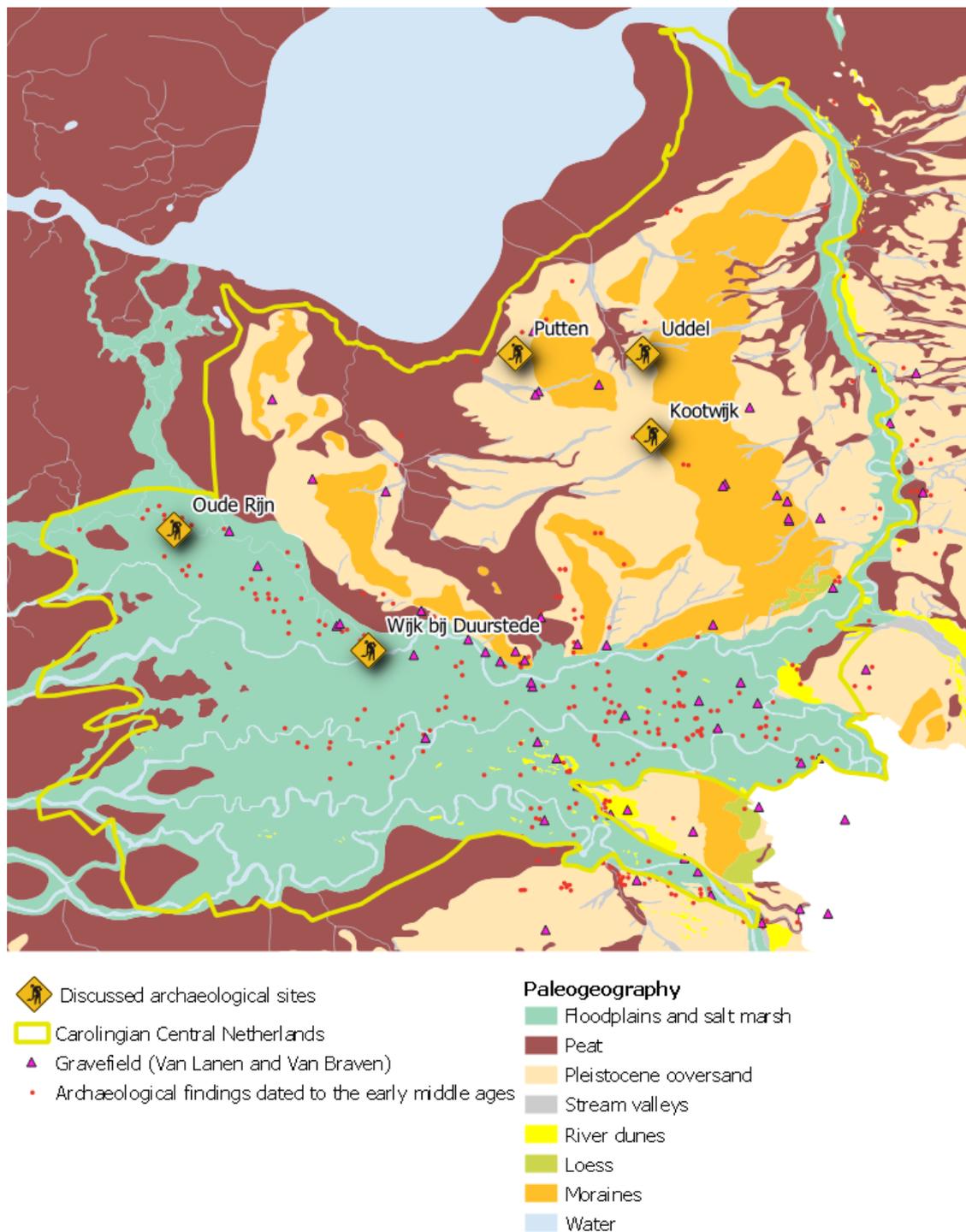
³⁴³ Duby, *The Early Growth* 22-23. Hamerow, *Early Medieval* 86.

³⁴⁴ *Lex Francorum Chamavorum* Title XIX and XX. Sohm (ed.), MGH Legum (V) (Hannover 1875).

³⁴⁵ Heidinga, *Medieval Settlement* 26.

³⁴⁶ Bert Groenewoudt, 'De Watervoorziening Op De Zandgronden: Ruimtelijke Patronen, Historische Ontwikkelingen, Achtergronden' *Tijdschrift Voor Historische Geografie* 4 (2019) 2, 74–88, at p. 81.

we might assume that access to water was privatized. This could indicate an inclination of the inhabitants to the privatization of also other common pool resources, such as wood-pasture. In reality, however, the presence of a communal well can mean the very same wide variety of things as the absence of enclosures in a settlement.



Map 7: Archaeological evidence across the Central Netherlands.

4.3 Archeological analysis

4.3.1 Fertile riverine regions

Proponents of the Mark theory assume that commons existed everywhere across the Carolingian Central Netherlands. Especially the Saxon IJsselvallei, in contrast to the more starkly Romanized and Frankish Betuwe, is linked to the presence of commons in the Carolingian period.³⁴⁷ However, this view can not be proven as written evidence for the presence of common land in these regions is simply lacking. On the other side of the spectrum are the advocates of the Domanial theory. They believe that the wasteland in the IJsselvallei had been confiscated by the king.³⁴⁸ Moreover, as many domanial estates could be located in the more southernly riverine regions of the Central Netherlands, they link the (post-Carolingian) emergence of commons mostly to regions such as the Betuwe and the Bommelerwaard.³⁴⁹

Following the rationale of the Scarcity theory it might be supposed that in the floodplains of the Kromme Rijn region or the Over-Betuwe, sufficient pressure on grazing existed in the ninth century to require regulation of pasture through the allocation of common property rights.³⁵⁰ In practice, the proponents of the Scarcity theory have been more reserved. On the one hand, some of its advocates presuppose the riverine regions of the Central Netherlands to have formed the cradle of the commons, because in these regions the greatest concentration of people could be found.³⁵¹ But others deem the perpetuation of domanial structures by late medieval territorial lords to have prevented the emergence or the endurance

³⁴⁷ Martens van Sevenhove, *Marken* 13, 25.

³⁴⁸ Martens van Sevenhove, *Marken* 11.

³⁴⁹ Martens van Sevenhove, *Marken* 172-173. Dirx, *...ende men sal* 6.

³⁵⁰ Van der Kamp, *Langs de oever* 19.

³⁵¹ Slicher van Bath, 'Studiën betreffende' 68.

of common land.³⁵² In any case, there is enough reason to treat the different riverine regions in the analysis that follows separately. The question will be asked: To which degree was land enclosed and thus possibly privatized?

Betuwe, Bommelerwaard and IJsselvallei

The report on the discovery of a rural settlement at Medel, in a large-scale excavation in the Neder-Betuwe, is yet to be published.³⁵³ The existence of a similar large-scale excavation of an early medieval settlement in the Bommelerwaard is not known to me. Although a number of partially excavated rural settlements at Lent, Elst and Wijchen in the Boven-Betuwe exist, their excavation-rapports remain to be studied.³⁵⁴ In the IJsselvallei, there have only been excavations of rural settlements with one or possibly two co-existing farmsteads.³⁵⁵

Kromme Rijn

Within the Kromme Rijn region, the excavation of Dorestad is an absolute treasure-trove of archeological information. However, how property rights to land in this agglomeration were distributed is still very much uncertain.³⁵⁶ One clue is that because tracts of land in Dorestad were actively reclaimed from the riverbed – a large, costly and labour-intensive project which required the use of many hands – property rights to land must have been a scarce commodity. The fact that this newly reclaimed land was systematically divided into fenced parcels of 18 meters width, which were even continued into the active river bed, suggests a high degree of regulation and privatization of rights to landed property.³⁵⁷

³⁵² Van Bavel, *Manors* 93-94.

³⁵³ The published rapports in May 2021, do not cover the early medieval settlement, see: Diederick Habermehl, Johan van Kampen en Jan van Renswoude (eds), *Opgravingen te Tiel-Medel-Hazenkamp en -De Reth. Twee grafvelden uit de Romeinse tijd en nederzettingssporen uit de Late IJzertijd, vroeg-Romeinse tijd en laat-Romeinse tijd* (Amsterdam 2019).

³⁵⁴ Possibly, the best excavated settlement in the Over-Betuwe is Carolingian Wijchen, where despite several small excavations-campaigns not a full picture has emerged. See: Kemme, *A different perspective* 549-553.

³⁵⁵ Van Beek, *Reliëf in Tijd en Ruimte* 91.

³⁵⁶ Annemarieke Willemsen, 'Dorestad Discussed Connections and conclusions' in: Annemarieke Willemsen and Hanneke Kik (eds.), *Dorestad in an International Framework New Research on Centres of Trade and Coinage in Carolingian Times* (Turnhout 2010), 177-183, at p. 179.

³⁵⁷ Van Es, Verwers and Isings, *Excavations at Dorestad 4* 187-190.

It must be conceded that such landed property which provided direct access to the river, must have been especially highly valued by the merchants of Dorestat. Nonetheless, it might be reasonable to assume that the inhabitants of Dorestat also owned, what German scholars have called, ‘*Aufstreckrecht*’ to wasteland. This privilege, of which there is no contemporary written evidence, would have consisted of the rights to appropriate a bloc of unclaimed wasteland directly adjoining one’s individually piece of property.³⁵⁸ The reclamation could be of indefinite length, but was equal in width to the individually owned tract of land it bordered, as beautifully illustrated by the artistic impression of Dorestat by Wim Euverman which is displayed on the cover of this thesis. According to one hypothesis, the underlying purpose of this custom was to ensure the equal division of wasteland in densely inhabited areas such as the Kromme Rijn region.³⁵⁹ However, whether this type of reclamation-rights (already) existed in the Carolingian Central Netherlands is uncertain to say the least.

Oude Rijn & Vecht

Within the Oude Rijn & Vecht region, there have been a couple of excavations of mostly seventh or eighth century settlements, but the first full ninth century Carolingian settlement has yet to be discovered.³⁶⁰ Nonetheless, the parcels of these settlements in the Oude Rijn region were all demarcated with ditches and braided fences, from which a high degree of property privatization could perhaps be inferred.³⁶¹ Moreover, every water-well in these settlements could be linked to one specific farmstead. In such settlements in which all resources appear to have been allocated individually, also pastureland may have been enclosed, regardless of the high maintenance costs.

³⁵⁸ E. Wassermann, ‘Opstreknedertzettingen in Oost-Friesland’, *Tijdschrift voor Historische Geografie* 7 (1989), 18-27, at p. 18.

³⁵⁹ B. W. Braams, *Weyden en zeyden in het broek Middeleeuwse ontginning en exploitatie van de kommen in het Land van Heusden en Altena* (Wageningen 1995), 58-59.

³⁶⁰ Van Dinter et al., ‘Late Holocene Lowland’ 253, 257.

³⁶¹ Van der Kamp, ‘Langs de oever’ 164, 165.

4.3.2 Infertile sand regions

Viewed from the perspective of its landscape, across the sand regions of the Carolingian Central Netherlands there was much more potential for the large-scale existence of common land than in the fertile riverine regions. First, there was just a general abundance of land in these regions, because population densities appear to have been much lower than in the riverine regions. Secondly, as large parts of the sandy soils were unsuitable for arable agriculture, there was plenty of wood- and wasteland. Thirdly, because of this infertility, the sandy soils appear not to have been alluring to manorial lords, though this hypothesis remains to be studied more deeply.³⁶²

However, although the risk of overexploitation was relatively low in these regions, the consequences of overexploitation were unusually high, as sandy soils are particularly vulnerable to erosion.³⁶³ A sustainable form of resource-management was therefore no luxury. According to the Mark theory, there is ample proof of commons across the sand regions of the Carolingian Central Netherlands. For example, when a farmstead was donated in the *marca Uttiloch*.³⁶⁴ Other scholars have speculated that prior to the Carolingian period the inhabitants of Putten and Ermelo already owned *scaras*, customary rights, to common woodland.³⁶⁵

Of course, the advocates of the Domanial theory see things differently. They believe that the late medieval commons across the sand regions originated from either aristocratic domains or from royal rights on uninhabited wasteland.³⁶⁶ If so, then there is no evidence of any common ownership of land during the Carolingian period across the sand regions. Lastly, the proponents of the Land-scarcity theory suppose that the low population density of the sand

³⁶² Van Bavel, *Manors* 93-94.

³⁶³ Heidinga, *Medieval Settlement* 133-138.

³⁶⁴ See chapter 3.3.2.

³⁶⁵ Neefjes, *Oerbos* 32, 44.

³⁶⁶ Gooi, see: Kos, *Van meenten tot marken* 46. Leusden, see: Hoppenbrouwers, 'The use and management' 94; and Buis, *Historia Forestis* 140.

regions allowed everybody to provide for his own needs.³⁶⁷ Hence, in contrast to the Domanial theory, they presume that in most areas of the sand regions no rights restricting the use of wasteland existed at all.

Whether rights to wasteland existed in these regions is indeed uncertain, but I think highly plausible. If the exploitation of wood-pasture across the wasteland of the sand regions was regulated, then its primary objective was probably not to ensure an equal distribution of common pool resources among neighbors. It would have been to guarantee the sustainability of wood-resources over time by restricting its use to a number of proprietors, as was explained in my theoretical framework within the introduction. The term *scaras* should in my opinion probably be interpreted as the variable shares which were connected to such a system. These shares were measured in the quantity of pigs one was entitled to pasture. However, aside from the occasional presence of the ambiguous term *marca*, there is no additional contemporary written evidence on the Veluwe which can support this hypothesis.

Therefore, in the following section, it will be analyzed to which degree property was shared among the inhabitants of Kootwijk, Uddel and Putten and whether these settlements were perhaps part of a domanial estate. To conclude, the issue in the sand regions is not so much the ratio of private to common land, but the ratio common to public land. More precisely, the question is how the co-ownership of property among commoners related to no-one's land.

Finally, due to the abundance of large-scale and high-quality excavations across the Veluwe, the archeology of the Rijk van Nijmegen and the Gooi & Utrechtse Heuvelrug, will be left to be investigated at another occasion. For now, the focus will be exclusively on the rural settlements of the Veluwe.

³⁶⁷ As in Flanders, see: de Moor, 'Common land' 122.

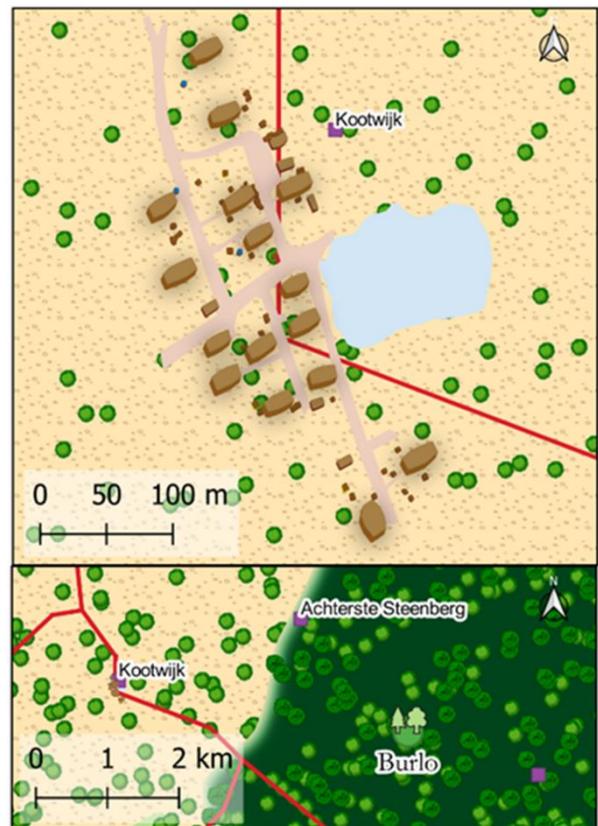
Veluwe

At Kootwijk, an exceptionally large rural settlement that emerged around the middle of the eighth century, of which the size in hectares has not been specified was excavated.³⁶⁸ In the year 800 it consisted of *c.* 17 farmsteads.³⁶⁹ It may have even contained up to as much as 40 individual farmsteads, as almost half of the settlement-territory was lost to erosion.³⁷⁰

Aristocratic dominion of this settlement has been forwarded as the only feasible form of local authority, but there are no archeological indications that would indicate the presence of a

manor or a farmstead with an elevated status in the Carolingian period.³⁷¹ A manor is usually interpreted by archaeologists as an abnormally large building with multiple outbuildings, with traces of industrial activity on its precinct, all surrounded by a ditch, moat or palisade.³⁷² The absence of such a remarkable building at Kootwijk, could perhaps be explained by the existence of a manor outside the excavated part of the village or in some other village. Alternatively, it might alternatively indicate the presence of a juridically free and reasonably egalitarian peasant society.³⁷³ It was also on the basis of its orderly lay-out, that it had been assumed that the

Kootwijk c. 800-825 AD



³⁶⁸ Heidinga, *Medieval settlement* 27.

³⁶⁹ While this site had harboured a Merovingian settlement, there was a hiatus of some 50 years in the continuity of occupation at this site during the first half of the eighth century. Heidinga, *Medieval settlement* 21.

³⁷⁰ Heidinga, *Medieval settlement* 25, 34.

³⁷¹ An exception is a large and apparently wealthy farmstead which however ceased to exist around the end of the seventh century; thus prior to the Carolingian habitation at this site. Heidinga, *Medieval settlement* 20, 44.

³⁷² Jan van Doesburg, 'Manors (*curtes*): new archaeological evidence from the Netherlands' in: Jan Klápšte (ed.), *Hierarchies in rural settlements* (Turnhout 2013), 221-235, at p. 232.

³⁷³ Heidinga, *Medieval settlement* 39. For a problematization between the inference of a higher social status from the number and size of artefacts and material remains in farmsteads see: Hamerow, *Early Medieval* 90.

whole settlement was owned by a single landlord. However, I agree with Heidinga who judged that peasants would also have been capable of establishing such order themselves.³⁷⁴

For its water supply the inhabitants depended on a number of privately owned wells, in combination with a small lake, to which multiple, if not all, households appear to have had access.³⁷⁵ However, particularly noteworthy is the absence of physical enclosures in Kootwijk, though the hypothetical legal boundaries of the precincts could still be reconstructed to a degree.³⁷⁶ The existence of close family ties between inhabitants has been forwarded as a possible explanation for the absence of enclosures, but I would presume that the settlement was too large to have been made up of an extended family or even a single kin group.³⁷⁷ In the end, it seems more likely that enclosures had either been present in the village, but were not recognized during the excavation, or were absent because the settlement was a mutually owned space.³⁷⁸

Moreover, the excavator assumed that its inhabitants farmed on ‘open fields’ which had been communally reclaimed from the wasteland, as none of the farmsteads linked up with an area of ploughland belonging to them.³⁷⁹ In combination with the presence of the lake, which seems to have been used communally, the inhabitants of Kootwijk must have been familiar with the concept of common property and possibly common property rights to land.

³⁷⁴ Heidinga, *Medieval settlement* 44.

³⁷⁵ Heidinga, *Medieval settlement* 27.

³⁷⁶ Heidinga, *Medieval settlement* 26.

³⁷⁷ Heidinga, *Medieval settlement* 26.

³⁷⁸ Heidinga, *Medieval settlement* 156.

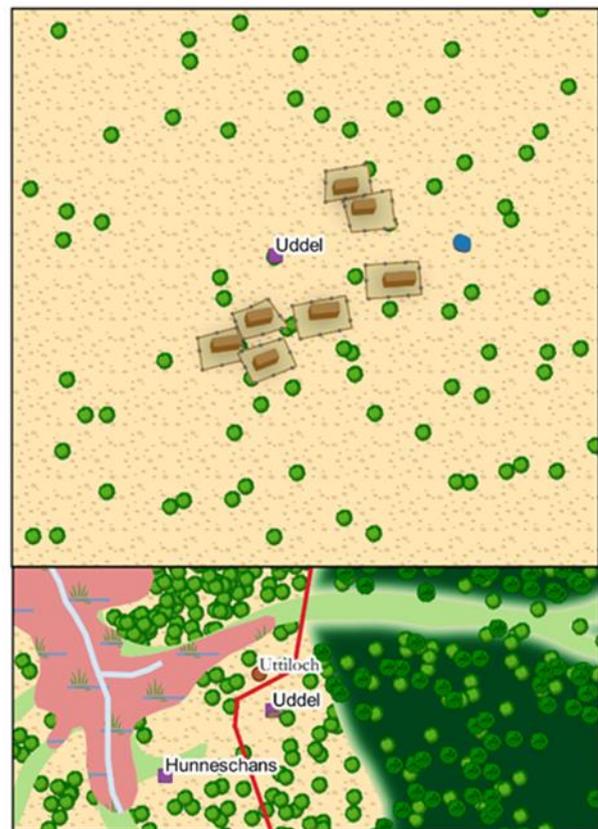
³⁷⁹ Heidinga, *Medieval settlement* 44.

At Uddel, a small segment (c. 2 ha) of a large rural row-settlement was excavated that, like Kootwijk also emerged around the middle of the eight century. In c. 800 it had consisted of at least five contemporary farmsteads.³⁸⁰ However, from the unearthing of a mid-ninth century palisade, it can be inferred that the settlement was probably much larger.³⁸¹ This settlement could very well have been the *villa uel marca Uttiloch* which was mentioned in the *Codex Laureshamensis*.³⁸² However, as with Kootwijk, no signs of a manor were recognized.³⁸³ Moreover, as there were no

marked differences within the value and the spatial distribution of artefacts across the excavation site, we may perhaps assume the presence of a relatively egalitarian peasant society, not unlike Kootwijk.

Intriguingly, at Uddel a single, rather large well, with a depth of six and a diameter of 12 meter, was discovered.³⁸⁴ The excavators deemed it unlikely that other wells had existed in the non-excavated parts of the settlement, or that any well had gone unnoticed. It may therefore

Uddel c. 780-810 AD



³⁸⁰ The discovered settlement existed between c. 700-900 AD, but was estimated to have had a focal point in the Carolingian period, more specifically between c. 750 en 875 AD. With probably two or three co-existing farmhouses in the eight century, growing to c. six farmhouses in the ninth century, the excavators uncovered an unusually large settlement, which was appears to have been even bigger. See: S. Diependaal, E.M. ten Broeke and P.J.L. Wemerman, *Uttiloch. Opgravingen proefsleuvenonderzoek Plangebied Heegderweg - Aardhuisweg te Uddel in de gemeente Apeldoorn* (2015), 136.

³⁸¹ Diependaal, Ten Broeke and Wemerman, *Uttiloch* 80.

³⁸² See chapter 3.3.2.

³⁸³ Sander Diependaal, 'Is Uttiloch ontdekt? De opgraving op de Aardhuis-locatie in Uddel' in: Aly Dijkstra-Kuit (ed.), *Op zoek naar Hamaland. Archeologische resten uit de 9de tot en met de 11de eeuw in Zuid Salland, IJsselstreek en Oost-Veluwe* (without placename 2020), 110-121, at p. 114

³⁸⁴ Diependaal, Ten Broeke and Wemerman, *Uttiloch* 152.

be concluded that, possibly in addition to lakes at *c.* 2 km distance, this single well provided water for the entire settlement.³⁸⁵

Unlike Kootwijk, however, lots of ditches (N = 330) were encountered at Uddel with haphazard remains of fences. Some have been interpreted as stockyards, while others were most likely the remains of fenced enclosures around the precincts of the farmsteads.³⁸⁶ This later identification is supported by the fact that the hypothetical precincts of Kootwijk were of a comparable size.³⁸⁷ Another difference with Kootwijk is that at Uddel arable fields were unearthened which appear to have been privately owned as they can be linked to individual farmsteads.³⁸⁸ To conclude, at Uddel there appears to be evidence for communal as well as private property, although landowning appears to have been largely privatized.

Finally, at Putten, a Carolingian settlement has been unearthened of which the results and interpretations have yet to be fully published.³⁸⁹ Like Kootwijk and Uddel, this settlement emerged also around the middle of the eight century. Unfortunately, it was not possible to determine its size in 800, other than that it consisted of multiple co-existing farmsteads on at least five separate precincts.³⁹⁰ While most of the structures and artefacts that have been unearthened in the settlement are comparable to those uncovered in Kootwijk and Uddel, there

³⁸⁵ Diependaal, Ten Broeke and Wemerman, *Uttloch* 152.

³⁸⁶ Diependaal, Ten Broeke and Wemerman, *Uttloch* 50, 65.

³⁸⁷ Diependaal, Ten Broeke and Wemerman, *Uttloch* 69.

³⁸⁸ Diependaal, Ten Broeke and Wemerman, *Uttloch* 34.

³⁸⁹ The interpretation of this settlement is complicated by the fact that site extended over three separate excavations which were excavated by two different firms. ARC excavated Husseleveld I & II in 2005 and 2007, and RAAP excavated Rimpeler in 2019. By the courtesy of Eric Norde from RAAP, I received the unfinished concept version of the excavation-rapport of Rimpeler. E.H.L.D. Norde (ed.), *Van Hotseri tot Rimpeler. Opgraving naar een vroeg- en laatmiddeleeuws cultuurlandschap in Putten-Rimpeler, gemeente Putten. Een archeologische opgraving.* (Concept version 26-03-2020). J. Schoneveld (ed.), *Nederzettingssporen uit de IJzertijd tot in de Volle Middeleeuwen. Een archeologische opgraving in het Husseleveld te Putten, gemeente Putten (Gld.)* (Groningen 2005). J. Schoneveld (ed.), *Aanvullend archeologisch onderzoek naar de nederzetting uit de IJzertijd – Late Middeleeuwen op het Husseleveld te Putten, gemeente Putten (Gld.)* (Groningen 2007).

³⁹⁰ At Husseleveld, 11 farmsteads were dated to the Carolingian period, but which of those co-existed is highly uncertain. Also individual precincts were not identified. Schoneveld, *Nederzettingssporen* 184, 189.

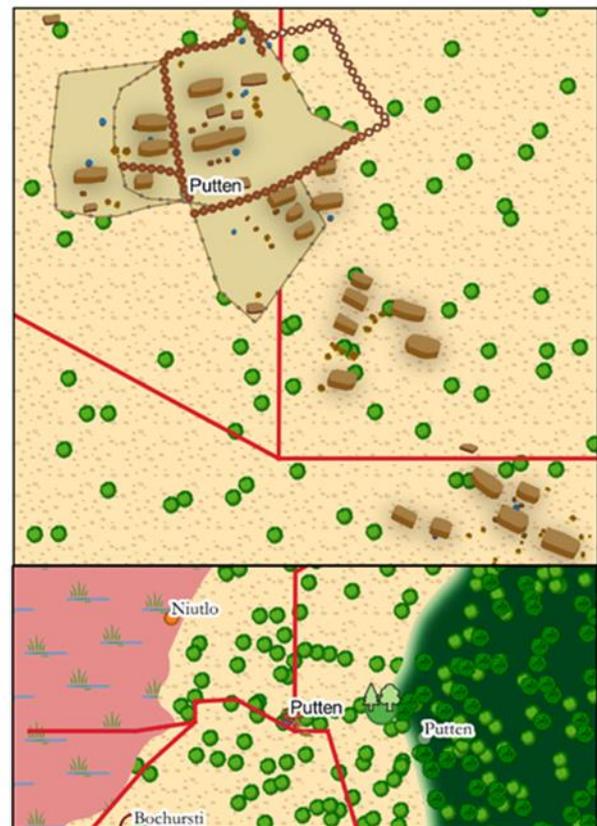
are also some marked differences which suggests that a more hierarchical form of governance existed at Putten.

The first difference with the other excavations across the Veluwe is that at Putten remains of what might have been a manor were discovered.³⁹¹ The identification of two neighboring buildings (which at some point between 750-850 may have existed simultaneously) as manors, was based on the fact that they were constructed differently than the other farmsteads in the settlement, but also because they were surrounded by a heavy palisade.³⁹²

It has been suggested by the excavator that this manor might have been one of the three *mansi dominicales* which were bequeathed by Folker to the Abbey of Werden in 855.³⁹³

The second difference is the overall absence (n=20) of sunken huts (Germ. *Grubenhaus*) across the settlement, with the exception of a relatively large concentration (n=8) at the precinct of the hypothetical manor.³⁹⁴ In comparison, at Kootwijk c. 185 sunken huts were identified and at Uddel 107. While normally sunken featured buildings are interpreted as workshops instead of residential dwellings, at Putten they have been interpreted as multifunctional buildings in which the slaves and servants of the manor could have resided.³⁹⁵

Putten Early Medieval



³⁹¹ Norde, *Van Hotseri tot Rimpeler* 109.

³⁹² Norde, *Van Hotseri tot Rimpeler* 108.

³⁹³ See chapter 3.4.2.

³⁹⁴ Six sunken huts were dated to the early medieval period in Husseleveld I, none in Husseleveld II and in Rimpeler fourteen.

³⁹⁵ Norde, *Van Hotseri tot Rimpeler* 109.

The existence of a pronounced hierarchy in the settlement may also explain why not every farmstead owned its own well.³⁹⁶ Whether ditches and fences, which enclosed the precincts of individual farmsteads, had a legal function is puzzling. Perhaps they demarcated the zone in which tenants could properly store their privately owned movable property.

4.3.3 Promising peat regions

The uninhabited nature of the peat-regions at the start of the Carolingian period make these regions great candidates for the presence of common land. Especially at locations where peat-regions bordered on densely inhabited regions, such as at 's-Hertogenbosch or Harderwijk, peatlands may have been used for common pasture. In the vicinity of these places even the terms *silva communis* and *scaras* can be encountered.³⁹⁷ On the other hand, the *ius eremi* may have frustrated the collective peasant appropriation of these lands, as for example parts of the peatlands of the Gelderse Vallei were considered to be royal land (*forestum*).³⁹⁸

Within the Scarcity theory, it has been argued that during the Carolingian period most peatlands above the Rhine were owned by no-one in particular. The reasoning is that in communities of cattle and sheep breeders delimited property rights to land did not matter, as wealth and status was measured in heads of cattle rather than in land.³⁹⁹ However, the number of cattle one could keep depended foremost on the amount of available pasture. Therefore, for the pastoralists across the marshes of Friesland and Groningen, a variation on the Mark theory has been advanced which assumes a gradual emergence of common land.⁴⁰⁰

³⁹⁶ Norde, *Van Hotseri tot Rimpeler* 105.

³⁹⁷ See chapter 3.2.2 and 3.3.3.

³⁹⁸ Scholte Lubberink, Keunen and Willemse, *Op het kruispunt* 174.

³⁹⁹ J.C. Besteman, 'North Holland AD 400-1200. Turning tide or tide turned?' in: Besteman, J.C., J.M. Bos & H.A. Heidinga (eds.) *Medieval archaeology in the Netherlands* (Assen 1990), 91-120, 107. A view which is for example still current for landownership among Iron Age communities in Northern Gaul. See: Nico Roymans (ed.), *From the Sword to the Plough: Three Studies on the Earliest Romanisation of Northern Gaul* (Amsterdam 1996), 54. But also for prehistoric Britain, see Susan Oosthuizen, 'Beyond hierarchy: the archaeology of collective governance', *World Archaeology* 45 (2013) 714-729, at 728.

⁴⁰⁰ D. J. Cuipers, *De gemeene dorpsgronden in Oostergo* ('s-Gravenhage 1949) 198.

The origin of *hemmeric*, as common land was called in the late medieval Frisia, might prove to be an interesting analogy for the emergence of common land in the Central Netherlands.⁴⁰¹ For example, in Westergo, a region in Friesland which appears to have been as extraordinarily densely inhabited as the Kromme Rijn region, it has been assumed that land in general was owned by no-one in particular and remained undivided for most of the early middle ages. Instead of alienable ownership rights that could be sold or exchanged, a kind of usage rights to land were considered to have been divided among families. These rights are considered to have been only inheritable and were transmitted orally from generation to generation.⁴⁰² A weakness in the theory is, however, is that this practice is difficult to reconcile with the documentation of numerous gifts of land and pasture-rights, to for example: the Abbey of Fulda and the Abbey of Werden.⁴⁰³ All these donations should then be interpreted as diverging from convention, which does not make it a strong argument.

Although the traditions of the inhabitants of early medieval Frisia and the colonists of the peatlands of the Central Netherlands may have differed, their subsistence strategies concerning bogland exploitation could have been similar. Consequently, the supposed typically Frisian origin and character of common land, has on occasion also been used to illuminate the distribution of property rights across the peatlands of the IJsseldelta and the Vechtstreek, as these regions are considered to have been (partially) inhabited by ethnic Frisians.⁴⁰⁴ However, at places where mainly ethnic Franks seem to have reclaimed peatland, such as Maaskant and the Gelderse Vallei, the Domanial theory has more frequently been applied to explain the origin of common land.⁴⁰⁵

⁴⁰¹ The late medieval term *hemmeric* is translatable as village-commons, as it consists of village (*hem*) and territory (*mark*). See, 'Hamric' Instituut voor de Nederlandse taal, 'Historische woordenboeken Nederlands en Fries' (2018), <https://gtb.ivdnt.org/> (consulted online on 03/12/2020).

⁴⁰² Gerrets, *Op de grens van land en water* 195-196.

⁴⁰³ Ernst Friedrich Johann Dronke (ed.), *Traditiones et antiquitates Fuldenses* (Frankfurt 1844), 42-47.

⁴⁰⁴ Westerink *Doornspijk*; 5.

⁴⁰⁵ Braams, *Weyden en zeyden* 57-59. Dirkx, *...ende men sal* 26.

Regrettably, remnants of Carolingian settlements have, to my knowledge, never been discovered in the peat regions of the Central Netherlands. Only non-perishable material such as pottery has been unearthed. The reason is probably that peat-soils frustrate the survival of settlement traces, as water erosion and oxidation may have erased perishable archaeological remains.⁴⁰⁶ Of course, the archaeological study of these regions is also hindered by the fact that archaeological remains are not expected to be uncovered any more at peat-soils. Therefore, it has not been possible to study the communities living on the peat-soils of the Carolingian Central Netherlands.

4.4 Summary

For the riverine regions of the Central Netherlands, there is very little written or archaeological evidence for the presence of common land. Although the regularly inundated floodplains are speculated to have functioned as common land, this hypothesis can not be substantiated. Likewise, also parts of the peat-regions can easily be envisaged to have been common land, but its existence is, by way of archaeological research, still to be demonstrated. For now, the best indications for the existence of common land occur across the sand regions of the Central Netherlands. Kootwijk and Uddel are excellent examples. At these sites, there are some possible archaeological indications for the existence of communal property.

⁴⁰⁶ Besteman, 'North Holland' 96, 106.

Conclusion

The struggle of medieval peasants against the illicit appropriation of their common land has inspired social and environmental movements around the world to protect or take back what they consider to be their natural and ancient rights to common land.⁴⁰⁷ The emergence of these rights, like the forces which oppose them, are habitually traced back to the early middle ages, as being that period in time where a perceived natural, and to some a superior way of living, made way for the emergence of an unequal and unsustainable society.⁴⁰⁸ Although this proves to be an attractive image of society in the early middle ages for some, it is uncertain to which extent this image can be grounded in historical reality.

This master thesis set out to examine the evidence for the presence of ‘common land’ in the Carolingian Central Netherlands, which was loosely defined as: ‘land used, managed or both by several individuals or groups’. We thereafter focussed specifically on the existence of common land which was collectively exploited for its wood-pasture in waste- and woodland. However, in the final chapter it was already concluded that the first sub-question ‘whether common land existed in the Carolingian Central Netherlands’ could not be answered. Therefore the second sub-question ‘whether peasants owned common property rights or only usage rights to common land’ can also not be answered. How did I arrive at this conclusion?

The first chapter laid out the groundwork by introducing the natural environment and social condition of the inhabitants of the Carolingian Central Netherlands. It also pointed out places where the existence of common land was plausible. That were the floodplains of the

⁴⁰⁷ Yogi Hale Hendlin, ‘From Terra Nullius to Terra Communis: Reconsidering Wild Land in an Era of Conservation and Indigenous Rights’, *Environmental Philosophy* 11 (2014) 2, 141–174.

⁴⁰⁸ Standing, *Plunder of the Commons*, chapter 1.

riverine regions, and across the sand regions the tracts of wasteland in the proximity to the islands of habitation. But most of all, the peat regions, which bordered to densely populated clusters of human habitation in either the riverine or the sand regions, emerged as likely spots for the presence of common land.

The second chapter identified the Mark, Domanial and Scarcity theories as the three dominant paradigms within the historiographic debate concerning the existence of common land in the early middle ages. The Mark theory argued that all, or at least certain groups of peasants owned property rights to common land. The Domanial theory on the other hand maintained that most peasants only owned usage rights. The Scarcity theory argued that there were no meaningful rights to wasteland involved at all. In other words, the Mark theory assumed wasteland to have been common land, while the Domanial theory presumed it to be private land, whereas the Scarcity theory regarded it to have been public land.

The third chapter identified the *Cartularium Werthinense*, the *Codex Laurehamensis* and the *Urbar Werthinense* as documents with the clearest pieces of evidence for the presence of common land in the Carolingian Central Netherlands. Within these sources the meaning of the terms *marca*, *scara* and *silva communis* was studied. It was revealed that the correct meaning of these terms is fiercely debated among the advocates of the previously identified paradigms. I have found neither paradigm to be entirely convincing, mainly because no paradigm was without unwarranted assumptions.

Nonetheless, it can be concluded that the term *marca* was probably in most cases not used specifically to denote common land. The terms *scara* and *silva communis* on the other hand are likelier to denote respectively a ‘share to common land’, and ‘common woodland’, but their meanings remain highly uncertain. Either term could for example also indicate the private ownership of land in the form of common heritage which was shared among kinsmen. One question raised by this study is therefore how such groups of kinsmen, who shared the use

of inherited land, can be separated from groups of neighbours who inherited common property rights to land. This question relates to the problem a medievalist encounters when he or she tries to demarcate kinsmen from neighbours, but also concerns the way in which people thought about family and distinguished between those who belonged to one's family and those who did not.

Finally, with the brief exploration of the archaeological sources in the fourth chapter, I hope to have demonstrated the promise of an interdisciplinary approach to this subject. That brings me to the main purpose of this master thesis, which was to reopen the debate concerning the presence of common land in the early middle ages. I hope to have convinced the sceptics in the field of early medieval studies that the existence of common land is more plausible than what is nowadays assumed, but to have also persuaded the few believers that the available evidence is highly ambiguous, and perhaps too complicated to simply assume the existence of common land in the early middle ages.

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Pictures

Cover: Artistic impression of *Dorestad* in c. 838 AD by Wim Euverman.

Picture 1: The *Cartularium Werthinense*, https://doi.org/10.1163/9789004264243_Q_055.

Picture 2: The *Codex Laureshamensis*, <https://doi.org/10.11588/diglit.19939#0001>.

Picture 3: The *Urbar Werthinense*, <https://www.beeldbank-ermeloo.nl/>.

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Glossary

Types of land

<i>Common land</i>	Land, usually wasteland, which was owned or at least used collectively by a group of peasants.
<i>Private land</i>	Land belonging to an individual and or his next of kin.
<i>Public land</i>	Land belonging to the commonwealth (<i>res publica</i>).

Theories

<i>Mark theory</i>	A theory which maintains that the commons evolved from an state of a primitive communalism.
<i>Domanial theory</i>	A theory which maintains that the commons emerged because of the dissolution of the manorial system.
<i>Scarcity theory</i>	A theory which maintains that the commons emerged as a reaction to the scarcity of resources due to rapid demographic growth.

Institutions

<i>Commons</i>	A voluntary collaboration of self-governed peasants reared to the management of common land.
<i>Domanial estate</i>	An involuntary collaboration of peasants in which agricultural production was governed and directed by hierarchal leadership.

Types of rights

<i>Common property rights</i>	A bundle of full rights to common land which was shared among a number of commoners.
<i>Common usage rights</i>	A bundle of secondary rights to common land which one could only use under the specified conditions of the landlord.
<i>Ius eremi</i>	Royal monopoly on wasteland.