
Freedom, warriors' bond, legal book. The *Lex Salica* between Barbarian custom and Roman law

Liberté, lien des guerriers, livre de droit. La lex salica entre coutume barbare et loi romaine

Jean-Pierre Poly

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TEXT

Thus, by a singular coincidence, the Germans framed their artless institutions at a time when the elaborate system of Roman jurisprudence was finally consummated. In the Salic law and the Pandects of Justinian, we may compare the first rudiments and the full maturity of civil wisdom; and whatever prejudices may be suggested in favor of Barbarism, our calm reflection will ascribe to the Romans the superior advantage not only of science and reason, but of humanity and justice¹.

- 1 In the month of September, year 1996, the pope came in France to celebrate the 1500th anniversary of king Clovis' baptism. The sovereign pontiff called back to the oblivious French their ancient conversion to Christianity and to Rome, alleged to be a brand of identity². Taking advantage of the event, some historians assembled in Rheims to investigate the conditions of the royal conversion and its supposed apurtenance, the making of the Frankish law, the *Lex salica*³. The link between the royal baptism and the *lex* – a first French law for a first French king – had been already alleged in the 17th century, in the great debate about the *constitution primitive* of the French kingdom. In the end of the Ancien Regime, Clovis prevailed as a law-maker upon the former Faramund⁴.
- 2 What was at stake in the controversy was then quite clear: was the author of the *Lex salica*, the first law of France, christian or pagan? Surely, the pagan dispositions of the old law were obvious to those who cared to read it, but the point was that the pagan king Clovis and his people had been washed by baptism and therefore entitled by God's grace to build a nation and have their own law. Still, at the time of the controversy, the only practical interest of the Salic law was to dismiss women's claim to the throne, an old legal trick dating back to

the 14th century and especially designed for the English. At that time, the French customs had been romanized, Roman law was subsidiary for the king's High Court, le Parlement de Paris, and in much use everywhere in Southern France. The debate about the ancient law of "nos ancêtres les Francs" had thus become a matter of ideology.

3 The 19th century historians accepted the perspective of the 18th, albeit with some reserves now and then⁵. Clovis' reign became a threshold between Germanic *barbaritas* and Christian *romanitas*. The Franks were supposed to have left over barbarity, beginning as French their march towards enlightenment or, as wrote Gibbon commenting upon Agathias' praise of the Franks, "displaying the social disposition and lively graces which in every age have disguised their vices and sometimes concealed their intrinsic merit". Came the 20th century, the reservations of the previous historians were forgotten and a somewhat hasty dating got the better, the great thing being the romano-christian heritage. Of more ancient cultures there was a clean sweep, except by the stark nationalists, or worse, in Germany, which did not make the matter the more attractive for others. What does actually the *Lex Salica* tell us about the past of France and more broadly, of Western Europe and its national kingdoms, after the fall of the Western Roman Empire?

4 At the end of the 5th century, a roman officer of Frankish origin, Hlodwig, succeeded his father, king Hildrih, to the government, both military and civil, of the province of *Belgica secunda*⁶. At that time, the Frankish communities of the province were not judged in roman style, by a Justice- Governor learned at imperial Law schools, appointed by an imperial office and provided with a collection of imperial laws⁷. Nor were they judged, for minor cases, by some squireen from the *curia municipalis* of the near city, *principalis* or *defensor*. Their suits went before rural courts of wise men called *rachimburgi*, "protectors against the consequences" – an euphemism for feud –, presided over by an officer named *thungen* or *centenarius*⁸. The unfrequent appeals and some very important cases went before the king⁹. The judges of these country courts could use a small law-book named *Lex salica*. In the words of Gibbon, "the first rudiments of civil wisdom" opposed to Roman law, "the full maturity" of it¹⁰. Though this *lex* was written in latin, it quoted the frankish words spoken "at the mound of the pleas", *mallobergo*¹¹. Some of the rules were pagan

and most of them fixed a compensation to end feud, a characteristic pattern of tribal/segmentary societies¹².

- 5 Those elements pointed at the antiquity of the law-book, but how ancient was it? At the end of the 8th century, Charlemagne had decided to reform the law. What was left of paganism was no more to be tolerated by a king engaged in what was styled *Renovatio Imperii Romanorum*. New versions of the law had been made and a clerk of the chancery issued a longer prologue (the *grand prologue* of the French historians) extolling “the noble Frankish people by God founded, strong in arms, profound in counsels... even then searching the key of knowledge while still holding the barbarian rite, longing for justice and keeping faith inasmuch as its customs permitted. But when, thank God, Clovis king of the Franks... first received the catholic baptism, what in the *Pactus* was considered unseemly was corrected with a decree, very carefully and clearly, by the noble kings Clovis, Childebert and Clothaire”. How could a law “of barbarian rite” have been accepted in a kingdom whose kings were Christians the clerk explained easily: the first baptized king had corrected the law and after him his sons. Anyway, even in their pagan period, the Franks were already true and faithful, what!
- 6 The intervention of Clovis’ sons the clerk who wrote the longer prologue had read in the old version of the law. At the beginning of the 6th century, king Childebert had thought necessary to add a *decretum* to the old law – the judgments and decisions of his council –, and he invited his brother Clothaire to join in. The man who wrote the adjunction ended it by a summing up (*cumlacio/conlatio*, the *epilogue* of the French historians) where he stated briefly what the text had been before his kings’ decree: according to him, “the first king of the Franks” – or “a first king of the Franks” – had established (*statuit*) 65 titles and added 13 others.
- 7 Three centuries later, the carolingian clerk assumed that this first king should be Clovis. But the text of the epilogue denies such an identification. The writer would never mention the king's father in such an off-hand manner, and besides, he states that Childebert’s adjunction was made “a long time after” the anonymous first king (*post multum autem tempus*). Childebert’s joint decree with Clothaire implies peace between the brothers, around year 524, therefore, for

Childebert's *referendarius* or *notarius*, the first king who had done the *statutum* was certainly not Clovis, gone only some twelve years before. Nor was Clovis considered in the Frankish tradition as the initial law-maker, as is shown in the shorter prologue of the law (the *petit prologue* of the French historians). When this prologue was written, very likely at the end of the 6th century, it made use of legendary elements that Childebert's man could not ignore¹³. The shorter prologue considered as law-makers four *viri electi* who had "settled by judgment" (*decreverunt*) a *pactus*, and the shorter prologue made no mention of a king. For the Franks of the sixth century, Clovis neither created the *Lex salica* nor amended it.

8 Some years ago, I attempted to date the *Pactus* and, in accordance to this dating, to understand its purpose and the social conditions of its making¹⁴. The shorter prologue – and no matter here the legendary elements it made use of – clearly expresses the aim of the law. It was not made to state a scale of compensations which could be dealt with and adjusted at will, as in other vindictive systems (*systèmes vindicatoires*)¹⁵. The purpose of the law was "to root out the fights" (*rixae*). To achieve this goal, the compensations were fixed once for all in a way both compulsory and accurate. They went for two thirds to the plaintiff or his kin, and for a third to the king for his peace, a third of this third going to the judge. In the Salic law, since the payments are now fixed, the old vindictive system draws nearer to the roman system, or our modern ones, where damages and fines are both decreed by the judge. The whole point was not regulating the vindictive system, but substituting it with what was in fact a penal system, or not far from it¹⁶. This analysis seems today admitted; in some studies it even seems a matter which never needed a demonstration¹⁷. But how had the Franks, living in a tribal society still grounded on kin, agreed to forsake feud, this fortress of kinship, even during some generations, since later they took to it again? While many historians have accepted easily enough the compulsory character of compensations in the Salic law, they do not seem to realize it meant the disruption, albeit for a period, of the old customary system of feud.

9 In 1993, I suggested that the law had first be made for the Frankish military settlements of the *extrema Galliae* in the years 350–353. The condition of refugees of the *Salii* Franks, hounded out by the Saxons from their territories north of the Rhine, would have left them no

choice. In 2006, taking advantage of constructive critics and a better lecture of former literature, I rallied to a two-time creation: an oral agreement (*pactus*) in the middle of the 4th century, and a written statute (*statutum*) in the 5th¹⁸. Some historians have accepted this view, others disagree¹⁹. Let us go back to the matter, considering first the relevant judicial dispositions in the *Pactus* (I), then the memory conveyed by later texts, the shorter prologue and the epilogue (II). Their purpose was different: the legal dispositions, more or less before Clovis' reign, had to rule the legal practice; the prologue and the epilogue, some three or four generations after Clovis' reign, relied on tradition to enhance the statute.

I. Judicial practice in the army

10 If we try to understand the social situation when the Salic law was born, we must consider two basic elements: the people who submitted to its jurisdiction, the *personae iudicatae*, and the territory which this jurisdiction was intended to rule, the *locus iudicandi*. The people amenable to the Salic hundred courts were military groups called *banda*, "banners". Their jurisdictional territory was determined in a title of the *Pactus* ruling the guarantee for eviction.

A. Frankish banners

11 Two kinds of people were concerned by the *Pactus*, the *Salii* Franks who gave their name to the law, and other "barbarians living under the *lex salica*". The law, though occasionally, cared also about people labelled *Romani*. Amongst those *Romani* were land-holders (*possessores*), some being commensals to the king (*convivae regis*), the others *tributarii*, mere tenants liable to the tax (*tributum*) which the *possessores* probably no longer paid²⁰. The mention of these Romans in the Salic Law is plain evidence that the *Salii* and their fellow-barbarians were established in imperial or ex-imperial territory. About that everybody agrees²¹. But established when and with what status?

12 The name of the *Salii* appears in the sources at the very time when those who bear it are crossing into imperial territory²². During the

summer 358, the Cesar Julian, by now firmer in his government of Gaul, went campaigning:

He attacks the first of all Franks, those commonly called *Salii*, who one fine day (*olim*) dared take the liberty to build up their shanties on Roman soil, in the region of Toxandria. He was arriving at Tongres when an embassy came to him from them... claiming peace with that legal condition (*sub hac lege*) they would be quiet and at home, and nobody would attack them or bother them. All things considered, he puts up to these delegates several conditions that were asking for discussion and sends them back with presents, telling them he would not leave the regions (*tractus*) until they return. As soon as they were gone, he followed them earlier than he said, marched on all of them (*cunctos*), sending general Severus along the riverside (of the Rhine, with another column?) and knocked them head over heels as a thundering hurricane. Then they showed more entreaties than resistance, and victory turned to seasonable clemency: he accepted them in dedition (*se dedentes recepit*) with their goods and children²³.

- 13 Ammianus was both a soldier and an accurate writer. He tells that the campaign unfolded in regions under military control, the *tractus* – in *Belgica secunda* and *Germania inferior*²⁴ – and that when Julian marched against the *Salii* in 358, they had already been there for some time. According to Nicomachus, another contemporary source used by Zosimus, the *Salii* had just been expelled from Betuwe, the *Batavorum insula* they were holding at that time, and their aggressors were some *Quadi* subordinates to the Saxons, not the danubian *Quadi* of course, but the *Nord-Schwabisch* group of this name. These northern *Quadi* were already assaulting the *Salii* before the time when Julian became Cesar in 355, thus in the reign of emperor Constant or that of the Britto-Frankish usurper and emperor's former officer Magnentius²⁵. With the *Quadi*, another tribe, the *Chamavi*, had entered Roman territory.
- 14 The imprecision about the time of the *Salii*'s arrival, the daring they showed, the leniency they benefited, all that may be explained if Julian had resumed the policy of the usurper, a continuity not to be stressed by Ammianus his admirer. The *Salii* had been asking for a *lex* "without bothering", that is a *foedus* with no compulsory service or fatigue, a status that Magnentius, in time of need, would have granted

them. Once overcome by Julian, they were still accepted in imperial territory but as *dediticii*, liable to any labour duty²⁶.

- 15 Notwithstanding, they were not distributed in the *agri deserti* as *coloni* while eventually providing recruits like other country folks, the policy enforced by Constancius I. The *dediticii* of Julian are left in the borderland and all men are enrolled on the rosters (*matriculae*) of the auxiliary units, ταγμασι εγκατελεξεν says Zosime. The *pax constantiniana* was then gone; as Magnentius, Julian was in need of soldiers, not peasants²⁷. Two generations later, three auxiliary units named *Salii* are listed in the roll of the *auxilia palatina*, recruited among non-citizens. On their blue shield, some of the western *Salii seniores* bear, in white, “the bond” (*sal*) which they had in their name²⁸.
- 16 Let us translate the names of the other *gentes* partaking their history, a task, granted, neither secure nor easy. But the historians who discard it from the start are like anthropologists who would disregard kinship structures alleging their complexity, and the *gentes* may appear as “a blurred multitude of several ethnic elements, disguising their diversity under pseudo-kinship labels”²⁹. He who would say so today about the Guayaquis, the Dogons or the Moïs would be rightly considered somewhat ethnocentric, if not worse.
- 17 The ethnic names of the groups entering the *extrema Galliae* tell much about them. In the first place the *Salii*. Two important dispositions of their law show that they are former *Ingaevones*, clans of matrilinear kinship, according to Tacitus one of the three major divisions of the Germans; Pliny says that in this division were only left the *Cimbri* and the *Chauci*³⁰. The white *Cimbri*, *CuHymBaere, “Who Bears Cow’s Hym” – a collective singular –, or rather what remained of this most famous tribe, were entranced in the North of the Jylland peninsula. The Greater *Chauci*, *HoHoc, “High Hawk”, on the coast East of the Weser, had surrendered to the emperor considered by them as an image of Woden – no shame to stoop before a god – and in 289, they had renewed this bond. This tardy passing over to a “political odinism” would have won those Eastern *Chauci* the designation *Sal-Iw, “Bond Yew”, the name linking Freya’s tree and Woden’s bond which changed wolves into the god’s disciplined dog-

warriors³¹. In 358, as we have seen, they did not really wish to fight the empire.

- 18 Julian's offensive aimed at others too, whence the "all together" (*cuncti*) in Ammianus. Zosimus, after Nicomachus, states that became also *dediticii* "some of those who were in the *insula Batavorum*". In *Germania*, everybody remembered that the *Batavi*, *BatHawe, "The Observer (who went) in a Dispute", had parted from other *Chatti* after a dispute, the *Chatti* being *Hatte*, "Called One", a wolf's name. The *Batavi* had come to an island in the Rhine, giving their name to it. When some groups settled in the land left by them and in the neighbouring lands of the *Chamavi* kin of the *Batavi*, those new-comers were styled *Hettware*, "Hatte(-land) keepers", thus distinguished from the Franks in the Salland, East of the Ijssel³². From these Franks of Betuwe, some surrendered to the Cesar who was merciful to them, others fled beyond the Rhine, in the Gelderland hills, thinking they would be safe. But in 360 Julian crossed the river at Xanten and launched his last offensive in Gaul; victor once more, he made peace and the many prisoners he captured reinforced his vast supply of troops.
- 19 Four other players in this northern "great game" underwent different handlings. First the *Quadi*, that is the *Cuwaedd, "Cow-pledged", part of the great league of the *Suevi*, but recently returned from the Danube. Amongst them some were accepted in *deditioem* as were the *Salii*, others were left beyond the Rhine. Then the *Chamavi*, *HamHawe, "Observer (stayed at) Home". They were repelled beyond the Rhine in the old "home" of the *Sicambri*, *Batavi*'s ancestors and theirs. As for the Germans of the right shore beyond Cologne, the *Bructeri*, *Brohthere, "Army that led (in the old time of the Cimbrian invasion)", and their kin *Amsivari*, *Emsware, "Em's Keeper", as soon as 356 the Cesar had taken care to make a peace treaty with their kings, turning them into *federates*³³.
- 20 Some forty years later, the *magister militum* Stilicho had to fight another campaign in the same region of the Lower Rhine. Claudian, a courtier poet, fond of archaisms but precise, tells that the general subdued the *Chauci* and the *Suevi*, that is the *Salii* and the *Quadi*, the *dediticii* of the former generations. He had also beaten the free *Germani* on the right shore, that is the *Bructeri* and *Amsivari*, and the

Chamavi. Those last, named by Claudian and later others with the ancient and noble name of *Sicambri*, the other part of the *Sicambri*, the *Batavi*, had gone a long way from the border. The *Sicambri* left beyond the Rhine, that is the *Chamavi*, became *dediticii* too. All the *dediticii* were inscribed in the roosters, as Julian had done with the *Salii*³⁴.

21 At that time the Germanic auxiliaries in the Roman army were using the word *let*, which meant in their language “tributaries”, as a designation of the *dediticii*. The word slipped into army latin with this special meaning, perhaps a bitter joke since the *let* who had lost their freedom had no reason to be “joyful”, *laeti*. The Salic law does not of course mention *deditiones* and it uses the word *letus* only to name half-free farmers, the former meaning of the word. When the law was written, the second meaning was no longer convenient; but the first was still quite necessary to qualify half-free people since there was no Latin term for them to be named. Tacitus had noted this difference in the status of those he called *servi* among Romans and Germans. Later, master Gaius had reminded his students that in Roman law “all men are either free or slave”, though but some lines afterwards he noted the existence of the *manumissi ex lege Aelia Sentia* who, said he, had a status drawn from that of the foreign *dediticii* which he shortly explained³⁵.

22 The *Salii*, Julian's *dediticii* or *laeti*, had been settled on the border where they had been beaten, in the *tractus* of the *extrema Galliae*. In 399, april the 5th, some months after granting “laws and rights” to the *Chauci (Salii)* and the *Suebi (Quadi)*³⁶, emperor Honorius ordered an inquest about the *terrae leticae* that had been previously given to people recently come, or come back, to the empire:

Since (people) from many nations following Roman fortune joined our *imperium*, for whom letic lands must be ruled, (we order) that none of these territories be received without our *adnotatio*. And since quite a lot of them occupied more than they had earned or since they received a broader measure of land than was asked for in the account, either with the collusion of the *principales* or *defensores* or by surreptitious writs, let an appropriate inspector be sent who shall reclaim what has been wrongly given or by some received with dishonesty.

Those people who had received *terrae leticae* came from different *gentes* – those beaten in 398 by Stilicho, *Chauci*, *Suevi*, *Sicambri*, or in more recent names *Salii*, *Quadi*, *Chamavi* – and they were *sequentes romanam felicitatem*, a deft expression to avoid stating which status they had, some being *dediticii*, some “inequal” *foederati*, the main point being that, no matter how, they were now under Roman rule. Many had taken advantage of the usurpations during the former years – those of Maximus and Eugenius – to occupy more than they had received from Julian or Valentinian, the *subrepticii rescripti* being a stone cast at the late *magister militum* Arbogast. From now on, *terrae leticae* would be granted only with the emperor's *nota*, actually the decision of his *magister militum* Stilicho, entitled to rule the *praepositurae* of the *laeti et gentiles* as we may see in the *Notitia Dignitatum*. The same resetting was done in Africa in 409, with a constitution about “land granted to the *gentiles*” (in 386?). This land free from taxes was to support the *servicium* of the *fossatum Africae* by the Moors of the local *praepositurae*, not be bought to escape the *fiscum*. The insertion of the constitution in the Code transformed it into a general rule (CTh 7.15.1). The constitution of 396 was briefly commented in the following century by a *summarius*: “The foreigners (*peregrini*) occupying land in a Roman province must receive no tenure (*beneficium*) but what will be granted by the prince's leniency (*indulgentia*). He who has occupied more than he was granted will have to give it back”. This was the time when Aetius settled his barbarian troops, most probably without asking the emperor, and the comment was not irrelevant³⁷.

- 23 In the *Notitia Dignitatum*, around year 400, the roll of the letic commands (*praepositurae laetorum*) still mentioned two of them in the region. To the West, in the province of *Belgica secunda*, “the *laeti* of the (land of the) *Nervii*” (*laeti Nerviorum*), likely the Franks once settled by Maximian³⁸. In the center, in the province of *Germania Inferior*, another command, the “*laeti Lagenses*, near Tongres”, those settled by Julian. This designation deserves attention: the Latin suffix – *ensis* indicates people linked to a place called *Lagu*. This Germanic word means both a set of rules, a law, and the territory submitted to it, in that case important enough to designate the *laeti*, thus not styled *Tungrenses*, the city name being added solely as a precision³⁹. Following these two commands in the *Notitia dignitatum* were two

other *praepositurae* written on four lines which were cancelled when the list was hastily corrected probably after the rebellion of Clodio, the ancestor of Clovis; in the first blank was later written a new Suabian command created in Aquitaine, the second blank remained empty⁴⁰.

- 24 The groups answerable to these commands did not disappear with the fall of the empire. In 552/554 Procopius, informed by a Frankish embassy to Constantinople, summarizes the situation in the regions across the Lower Rhine. There were the Γερμανοι, the free Germans on the right bank – the Saxons – and on the left bank the Αρβορυχ(τ)οι, “Ere-Brought”, “now soldiers for the Romans”, federates. Near those lived “other soldiers for the Romans; you can see them still muster today according to the rolls where they were written on, and they line up in battle bearing their own banners”⁴¹. The muster-rolls (καταλογοι), identical to the *matriculae* of Julian and Stilicho, and the “ensigns” (σημεια) kept in a particular region imply districts for the levies. According to later charts, six counties (*pagi*) bore the name *bant*, “ensign, banner”, a word well known in army latin. In the 5th century, the units and their banners did not go away to fight, and the shock troops had turned territorials. Their ensigns, now kept at home, named proudly their counties, and these names, like in all ancient tribal societies, had a meaning then known and understood though with the time it was lost⁴².
- 25 In the nervian command (*praepositura*), we find the Bracbant, a possible *B(oh)RaecBant, “the banner presenting the ring”. The *pagus* was divided in four *pagi minores* which could have been establishment and recruiting districts for the four hundreds of a *numerus*⁴³. The size of the *pagus* and the fourfold structure seem to imply continuity.
- 26 In the other command, that of Tongres, we find the *Hasbannium*, *Haspengewe*, *Hesbain*, where *bant* would be omitted for the sake of a more gratifying *Haesbann, “the order-district who calls (to assembly)”; this county too was divided into four *pagi minores*, an evidence for continuity⁴⁴.
- 27 A third banner, the *Osterbant*, “Eastern banner”, had been East of the others, probably the settlement of the Frankish Hettware east of the Maas, in *Germania Inferior*. But the banner must have left to follow Clodio of Duisborg. The *praepositura* was cancelled in the list of the

Notitia Dignitatum, leaving the second blank, and the name was left for a small *pagus* not far from Cambrai, around Hellesmes where Clodio had been beaten by Majorian's cavalry⁴⁵.

- 28 Another banner, the *Caribant*, “the return banner”, a small *pagus* north of Arras which would have followed the rebel Clodio⁴⁶, was what was left of the Quadi, the Suabians “returned” from the Danube who had been invading the *extrema Galliae* in the 350s. Perhaps they had first been settled by Julian in the North-Brabant, the ancient Gaulish *Texandria*, where we find a region named Keerbergen⁴⁷. This *praepositura* too was cancelled in the *Notitia*, replaced perhaps by a new *praepositura* of *Suevi* in the far Angoulême⁴⁸.
- 29 The fifth and the sixth banners guarded the vasty mouths of the Rhine. Near Betuwe was the *Testrebant*, likely the country of the *Sicambri* enlisted by Stilicho⁴⁹. Between Kromme Rhein and Ijsel, the *Swifterbant* may have been Swabian⁵⁰. Small regions, left-over: many warriors would have followed Clodio, their neighbour at Doesburg. Off to Angoulême too.
- 30 The text of the Salic law confirms the evidence for the military status of the people under its rule. Those were soldiers under the banners who named *graef*, “catcher”, the *praepositus* coming in their families to levy the young recruits or the fatigue parties⁵¹; whose local chief with his retinue of 120 youngsters, the *thungen*, was styled *centenarius*, the highest of the NCO in the Roman army⁵²; in whose language a *torp* was an armed group of eight to ten men the PLS explicitly calls a *contubernium*, the group of comrades in the same tent or room, the basic cell in the Roman army⁵³; amongst whom, when the public character of a judicial mote needed to be plain, the regimental shield was hoisted⁵⁴; and whose ancestral tenure, *terra salica* or *avatica*, could be inherited only by sons, the rule for military *beneficium*, quite different from the customary equality between sons and daughters claimed in the same title for the *allodes*, the family chattels⁵⁵. The people under the Salic law in the late 4th century – the *Salii* and other groups living along the same rule – are no others than the *dediticii* settled fifty years ago in the lands of the *extrema Galliae*. A title in the law corroborates the previous evidences; it states the customary area where its dispositions worked.

B. The guarantee for eviction

- 31 Title 47 of the Salic law is named *De filtortis/feltortis* – which is **fyltorhte*, “complete clearance” –, with the precision “(for) those who live under the Salic law” (*qui(bus) lege salica vivunt*), as in the first paragraph of the capital title 41, *De homicidiis*. The title 47 ruled the guarantee for eviction, a disposition we may find for example in the French C. Civ. art. 1626, “le vendeur est obligé de droit à garantir l’acquéreur de l’éviction qu’il souffre...”, the guarantee being completed by the “action récursoire” for he who sold in good faith, against his own vendor. There is the same mechanism in title 47: if the owner of a chattel – most of the time a horse – is charged with theft and he says that he bought it from another man, the chattel must be put in third hand and the owner must summon his vendor; if needed, this vendor summons in his turn his own vendor, and so on; the one who defaults is guilty. The law gives a delay to present a vendor, distinguishing two situations: either the defendant or the vendor dwells in a customary area, and the delay is 40 days; or the defendant or the *cumnegociator* dwells out of this area, and then the delay is double, 80 days.
- 32 The customary judicial area where the shorter delay applies is *citra Ligere aut Carbonaria*, generally translated “within the Loire and the Ardenne”, the other limits – the Rhine, the North Sea, and the kingdom of *Burgundia* – supposed to be implied⁵⁶. Legal delays are generally longer than strictly necessary. In that case, if we consider the length of the judicial area, the shorter delay is impossible: from one end to the other there are almost 1 200 km as crow flies; in forty days the defendant should travel this distance to seek his vendor and be back with the man to the session of the court. This means a ride of thirty kilometers each day, quite easy for a trained carrier changing horse during a short period. But the defendant would ride his own horse without intermission, arrive to his vendor’s estate after twenty days on the saddle, find his vendor at home and ready to follow him, and both would remount immediately for another twenty days ride back, notwithstanding accidents on the road, a stone in the shoe of the horse, a bad storm, a flooded river and so on⁵⁷. “Qui veut voyager loin ménage sa monture”: such a voyage would kill a horse to recover another.

- 33 Other limits must be found. For the *Liger*, the solution was proposed by the Belgian historians, Godefroi Kurth and Guillaume Des Maretz⁵⁸. They identified the Leie/Lys (*ligeie/legeie*), a tributary of the Scheld running parallel to the seaside and an old limit between Brabant and coastal Flander⁵⁹. The judicial area was thus determined by the Leie to the West, the Charbonnière, considered to be the Ardenne, to the South and of course the *limes*, the line of forts on the bank of the Rhine. Within these limits, the delay was adequate. But why except from the judicial area the region between the Leie and the sea? It had been the territory of the ancient gaulish Menapii but the land, flooded by the sea transgression in the 3rd century, had become a marshy country, a resort for pirates and bandits, *flemas*. The empire had put it in the special control of the Channel fleet, under the name of *tractus nervicus*. A Frankish abode was neither wished for nor allowed⁶⁰. In the 7th century, the region was known as *Flandriae*⁶¹. The division was at that time obsolete and in manuscripts of the *lex salica* one copyist substituted the Maas for the Leie⁶², others preferring *Liger*, the Loire, or reading *eligere* or *ligare*. The disposition disappeared in the *Lex carolina*.
- 34 At the time when Kurth and Des Maretz identified the Leie, Van Der Linden was interested by the *Carbonaria*. His work has been summarized and completed by René Noël⁶³. In Cesar's time, a boundless forest stretched out from the Rhine to the straight of the Maas and beyond, "the greatest forest in Gaul" thought Cesar, "stretching on more than 500 *milia passuum*". It filled the northern part of the territory of Trier's *Treveri* and extended to the *Remi* of Rheims, the *Nervii* of Bavai and the *Eburones* of the Maas who took refuge in it. Its gaulish name was Ardenne. Then "l'homme a pris pied de côté et d'autre; il a bousculé la végétation et démembré plusieurs massifs forestiers. Ainsi s'est détachée la forêt Charbonnière"⁶⁴. *Carbonaria* is a latin name: after the Roman conquest in Gaul, much coal was needed for the ironworks and the big public baths in the cities. Government demanded deliveries of coal and the fatigue-parties of the *coloni* soon called the forest for what they had to do with it, *Carbonaria*, "charcoal place"⁶⁵. But did this word name part or the whole of the old gaulish Ardenne, or another forest?
- 35 Two medieval texts show that Thiméon, north of Charleroi, was "near the *Carbonaria*", and so was the abbey of Lobbes. Some 12th century

charts mention forest-rights in the *Carbonaria* for the town-folks of Ecaussines, Reulx et Seneffe, North of Lobbes. René Noël notes:

*Une série de documents – de vrai tardifs – dénomment (ainsi) divers bois qui s'égrènent sur une trentaine de kilomètres plus au Nord (de Lobbes) et pourraient se prolonger jusque dans la vallée de la Dyle en Brabant. Rien de sûr néanmoins : les failles dans la continuité des témoignages, que les relevés toponymiques comblent imparfaitement, inquiètent par leur ampleur*⁶⁶.

36 The “relevés” he mentions are presented in maps 2, 3 and 4 of the study, nicely drawn by Étienne Renard. They show the ancient abodes, the land-clearing place-names, the archaeological remains, all this interesting indeed but without any textual link with the *Carbonaria*, and the three only places linked to the forest, albeit perhaps not in it, in the 12th century, putting all that under the daring title “La forêt Charbonnière de Thuin à Nivelles”. From Thuin to Nivelles, it is of course not enough for this virtual *Carbonaria* to be an important march, whence a step further, a mere hypothesis, its extension towards the North to the forest of Soignes/Zonënwood near Bruxelles, famous from Waterloo. While Noël's conclusion was doubtful – “nothing sure” – the title of Renard is more affirmative. Nevertheless Renard rightly accepts the identification of the Leie, hard as it be to conciliate with the supposed bearings of the Charbonnière from Thuin to Soignes. When he tries to draw on the map such a delimitation – westwards: the Leie on some 70 km; eastwards: the hypothetic *Carbonaria* from Sambre to Dyle, somewhat the same length –, the inconsistency is obvious: the proposed judicial area has no limit northwards on some 70 km, and no limit southwards on some 90 km⁶⁷. No legal text, even today, could bear such imprecisions.

37 To know where was the *silva Carbonaria*, it needs only to read carefully the study of Noël. The forest is mentioned for the first time in the *History of Sulpicius Alexander*, when he tells the offensive of the imperial army which had started from Trier to go and fight the Franks ransacking the region of Cologne. Those looters who had not crossed back the Rhine in good time were wiped off in the *silva carbonaria* before the army continues its route to cross the Rhine at Neuss. The army had to march hastily, and a deviation of its route through the Zonënwood or to Lobbes is highly improbable; the part of the forest

where the Frankish looters had sought safety must be the eastern end of the gaulish Ardenne, later named Eifel⁶⁸. Two centuries later the name Ardenne indicated only the heart of the ancient forest, around the Sémois, the Ourthe, the Amblève et the Hautes-Fagnes. Noël notes that the region had been a royal *fiscus* and before, an imperial *saltus* of Valentinien. As a *fiscum*, it was exempted of the *carbonis conlatio*, and this is why for the middle part of the forest the old name was not replaced by the new one⁶⁹. In the Eastern part the remembrance of the killing may have introduced the name Eifel. In the western part, the most exploited sector by the charcoal-makers, the name *Carbonaria* got the better.

- 38 Thus in 687 Pippin of Herstal, marching against Thierry III, went through the forêt Charbonnière and reached Tertry-en-Vermandois in Neustria. Some years later, Charles Martel and the Austrasian army crossed again the Charbonnière, arrived at Vinchy-en-Cambrais and ransacked Neustria. In 954/955, the Hungarians who had looted the region of Tongeren rode through the Charbonnière, attacked the abbey of Lobbes and further layed siege to Cambrai⁷⁰. These three armies, following the road from Maastricht to Bavai, crossed a Carbonaria which might stretch from Lobbes towards the North as well as towards the East.
- 39 But the position of the Charbonnière is shown by the *Annales Mettenses priores* telling that Pippin, mayor of Austrasia, “governed the people dwelling in the vast territories between the *silva Carbonaria*, the Maas and unto the borders of the Frisians”, who then held Zeeland and Duurstede. The *Carbonaria*, since it limits “vast territories”, must stretch south of Hesbaye where was Landen, abode of Pippin, and south of Brabant where lies Nivelles, his funeral church⁷¹. Likewise, in 1142, Nicolas, canon of Liège, giving the limits of ancient Austrasia in the perspective of his own age when Empire held Brabant and Hesbaye, says: “from Burgundy to the sea of the Frisians (the North Sea) and on one side the Rhine, on the other the *Carbonaria* forest or the Argonne”, the Argonne joining the *Carbonaria* which was thus where today are the Fagnes Occidentales, thus the western part of the old Ardenne⁷².
- 40 *Carbonaria*, at the end of the Roman empire, named the ancient *immensis silva* of Ardenne in its parts liable to the *carbonis conlatio*;

only the center, the former imperial demesne, once exempted of the coal delivery, retained the gaulish name. In the 8th century, the eastern part of the forest bore the new name of Eifel and the designation *Carbonaria* was restricted to the western part. Later the forest in this part was broken into woods and the name *Carbonaria* disappeared, replaced by local designations. Before that, the *silva Carbonaria* was a southern limit for the Maas and Lower Rhine region. As for the limit to the Leie, it belongs to the *tractus nervicus*, a token of the imperial dominion over the country.

- 41 The same dominion is supposed by the existence of people living under Salic law and buying horses or other chattels outside their customary judicial area. Rather than Franks scattered in the great kingdom of the 6th century, where this judiciary area would make no sense, the distinction inside/outside the customary limits might indicate the links with a Frankish group removed from the area in the second half of the 4th century, namely the Franks of Rennes mentioned amongst the *praepositurae laetorum* in the list of the *Notitia*⁷³.
- 42 Once the practice of the guarantee for eviction is understood, the limits in the title 47 may be correctly defined and the judicial area coincides with the territory of the three main Ingaewone banners in Northern Gaul. This was the place where the Salic law was created. Let us hear what the Frankish tradition had to say about it.

II. Remembering ancient times

- 43 The Frankish tradition of the *Lex salica* is reflected in the shorter prologue of the *Pactus* and, with a laconic and seemingly inconsistent manner, in the epilogue. Prologue and epilogue were written in the 6th century, therefore much later than the time they remember⁷⁴. Both re-use legendary elements which show how the Franks imagined and kept in memory the making of their law. According to the prologue, the law had been decreed – a *decretum* being then a judgment, what would be called later in French courts “un arrêt de règlement” – as a *pactus*, that is *stricto sensu* an unwritten act; the law-makers had been four chiefs and the law had been enacted in three estates (*villae*). According to the epilogue, a first king had established the law in a written form (*statuerat*), this text being the ver-

sion in 65 titles where the king is steadily mentioned. Both traditions were true.

A. The three estates and the four chiefs

- 44 According to the austrasio-burgundian tradition in the shorter prologue, the law had been decreed, after a thorough discussion, by *virii electi de pluribus*, namely Uuisouuast – in other manuscripts become Uuisogast by attraction of the other names –, Arogast, Salegast and Widogast. They would have held assemblies (*convenientes*) in three sittings (*malls*), a proceeding suited to an oral agreement. The three mootings took place “in the estates which are over-Rhine in Bothem/Bodachaem, Salehem/Salachaem et Uuidohem”⁷⁵. The area, as well as the time, have been considered with *a priori* which still ponder on the discussion.
- 45 The area. For a French historian or for a Roman annalist, over-Rhine was in Germany. The German historians followed in the steps of the French, perhaps because for them the best side of the Rhine was the right bank, *Germania libera*. The three *villae* were therefore searched for East of the Rhine, albeit without enthusiasm, a legendary traditions being of no avail for positivist history⁷⁶.
- 46 From an anthropological perspective, over-Rhine is relative and one has to check where it was in Frankish tradition. Drawing from the same old tales than the shorter prologue, Gregory of Tours declares:

In fact, many tell that this same (Franks) went out from Pannonia and dwelt first on the banks of the river Rhine and afterwards, crossing the Rhine, passed over in *Thoringia* and there, according to countries or cities, they created over themselves long-haired kings drawn from the first and, if we may say, the noblest of their families, for which later were evidences the victories of Clodio... It is told that Clodio... dwelt in the castle of *Dispargum*, which is on the limit of the *Thoringi*. In these regions, that is to the South, lived the Romans, unto the Loire⁷⁷.

In the end of the 6th century, the migration, in the memory of the Franks, went through three stages. It started in *Germania* from a *Pannonia* identified as the Danubian Pannonia by Gregory and his likes, not much interested in frankish antiquities and paying them lip-

service. This Germanic Pannonia must be a **BanHonia* on the sea-coast, the country of the “Killing-Hen”, a *kenning* for the she-hawk of the *Chauci*, the High-hawks later established in the empire⁷⁸. From there the *Salii*, the “Bond-Yew” Franks, arrived indeed to the banks of the Rhine, North to the river. They crossed in *Thoringia*, the country of Those of Thor, the *Sicambri Batavi* and *Chamavi* between the Ijssel and the Waal; those, unlike the *Salii*, were *I(d)staewone*, of patrilinear kinship⁷⁹. In this Salic version of the tradition, the Franks had passed over the Rijn from the right bank to the left, from *Germania* into imperial territory where, “southwards”, lived the *Romani*.

- 47 In 726/727, the author of the *Liber Historiae Francorum* presents a somewhat different version which might well be that of the *Sicambri* since it concerns that part of the Franks who spoke *(H)attica lingua*, of course not the language of the Athenians but that of the *Hatti*. They too had been “in Pannonia” but “near the Meotides marshes”; the Azov Sea being out of question, it must be again an homophone, likely the marshy meadows of the *WihMode*⁸⁰. There they had established a *Sicambria*, that is the Saxon Ammerland, West of the Weser estuary. Then, after fighting for Valentinian against runaway Alamans, they had come in “the farthest regions of the Rhine, in the castles of *Germania*”, and there they had made kings over them, likely one king ruling after another. At this stage, the *Liber* inserts the passage of the shorter prologue about the four chiefs and the three estates *ultra Renum*, stating, as did Gregory who is the writer he is relying on: “At that time, in these regions *cisRenum*, the Romans lived unto the river Loire, and beyond the Loire ruled the Goths”⁸¹. For the *Liber*, the country *cis-Rhenum* is obviously to the south of the river, *trans-Rhenum* therefore should be to the north of it, the three estates being there. But they are on the bank of the river, not in the deep of the *Germania libera*, and it is worth noticing that the *Toringia* which Gregory places after the crossing of the Rhine from the North was, according to the *Liber*, “a region of *Germania*”, thus meaning the Roman province of that name. One can understand these hesitations: which Rhine was crossed, the Kromme Rhein unto Staveren and Texel to the North, or the Waal to the South, Betuwe and the *Thoringia* being in the midst?⁸² Never mind, drawing on a tradition in his time very ancient, the clerk of the *Liber* thought already like a French. Over-the-Rhine had changed side.

- 48 The Franks who, at the end of the 6th century, had told to the king's *referendarius* the tale of the four chieftains did not care about what would become later an inaccurate precision. The three estates of the tradition, not far from the Lower Rhine and the near Thoringia, were on the left bank, a day's march from one another, following the very order given by the prologue: Bothem/*Bodachem, slightly changed in Bodingahem, was in Brabant, Zelhem was in Hesbaye and Wittem was East of the Maas⁸³. This is again the area of the *laeti*'s settlements of the 4th century. There, and not in the deep of Germany, the Franks and the four *electi* had debated over the law they would have. Who were then the "chosen men"?
- 49 A tradition is no mere historical recording, and Wolfgang Haubrichts has rightly claimed a mythological lecture of the Petit prologue⁸⁴. In our former studies, we had thought, with a rather short-sighted view, that if the names of the law-makers had their endings in – *gast* from the historical Arbogast, it was for the mere sake of alliteration. Truly, the *Liber Historiae Francorum* had recorded the forefathers (*priores*) who bore these names as pagans (*gentiles*). But Haubrichts has rightly stressed that in a legendary tradition the word *gâst* certainly qualifies the four *electi* as "spirits". Still, though Haubrichts' analysis stems from a right acknowledgment, his interpretation of the four names seems somewhat "post-dumézilienne" and has no special adequacy to the Franks. Acceptin his general view, let us start not from an *a priori* threefold scheme but from the name whose meaning is the more reliable.
- 50 Salegast can hardly means "the spirit of the hall", an "inside spirit" opposed to an "outside spirit" which would be Widogast as "spirit of the wood"⁸⁵. In the Frankish tradition, Salegast – whatever the meaning the first radical may have had elsewhere – was surely understood as *SaleGaest, "Spirit with the Bond", he who protected the *Salii* and their ethnic name. Probable too is the meaning of a second name, actually the first in the list and thus likely to be the leader of the three others: in the beginning of the 8th century, it still was Wisowast/*WisAwAest, "The very first of the wise law"; at the end of the century, it had become Wisogast/*WisAwgast, "Spirit of the wise law", likely the law of the compensation of the *faida*, the feud, whose spirit was Woden, indeed called "father of all (the gods)" and "the very first". The meaning is confirmed by an addition inserted after the

name by a copyist of the monastery of Luxeuil: he wrote the injunction *wisow ado*, "destroy the 'wise law' ", the monks being of course hostile to Wodan and the old custom⁸⁶. The last two names may be interpreted in accordance with the formers, Arogast being similar to old-english **AerOcGaest*, "Spirit too of the Former (people)"⁸⁷, and Widogast to **WidOcGaest*, "Spirit too of the Large (people)"⁸⁸.

- 51 Under the dominion of feud's god Woden, three assemblies had been held in the three main settlements, each of them embodied by a *gaest*. The spirit of the *Salii* was at home at Salehem/Zelhem in Hesbaye; in the West another spirit cared for the banner of Brabant established half a century before the *Salii*, the people there being "former" to the *Salii*; and the spirit of the "large people", the many Hetwares, guarded the Eastern banner before it became the tiny Ostrevent. Once the names were said to be those of *proceres*, the authority of the ancestral spirits was concealed, albeit this concealment had not eluded the vigilance of the monk of Luxeuil⁸⁹. The spirits companions to the blue Lord were the ethnic avatars of the wanderer who sometimes guided the stray ones: the wolf with the leash, Wodan's hound sitting up friendly on a shield of the *Salii*, the white wolf so well known in France that it became proverbial, "*connu comme le loup blanc*"⁹⁰. The drafter of the shorter prologue of the law, Asclepiodotus *aut eiusdemodi similis*, did not know about that, or rather he did not want to know.
- 52 But the *electi viri* of the tale are not only legendary characters. Claude Lévi-Strauss has shown that myth is not exclusive from history, it absorbs the social traumas, bringing back a distressing historical situation to never-ending structures⁹¹. The shorter prologue of the Salic law is a good example of this proposition. Tales always tend to the symmetry of their elements, thus, in the prologue two names of the characters correspond to the names of two estates, i.e. Salegast to Salehem and Widogast to Widehem. But the symmetry is not complete as should be expected. Neither Wisowast, the first name in the list, nor Arogast, the second, fit the name of the first estate, Bothem/Bodehem⁹². This discrepancy was inherited from history.
- 53 Some thirty years ago, I suggested we could identify the four characters of the shorter prologue with four Frankish officers of the imperial army in the 4th century: Gaiso, Arbogast, Salia and Nevitta⁹³. This

trespass of Antiquity into Middle Ages displeased some medievalists. The identifications would lack philological relevance, as if, in the field of proper nouns come to us from another language, the philological rules should always stayed firm⁹⁴. Still, let us try to improve our demonstration, beginning again by the likeliest.

- 54 Arogast in the prologue has for a long time been spotted out as an echo of the famous *magister militum* Arbogast⁹⁵. The name **ArbBo-hGaest* “the guest with a (king’s) collar in inheritance”, might have been given to the man when he was the young son of a king and hostage to the Romans. This identifying has not raised philological objections but a seemingly common-sense criticism: Arbogast, self murdered at the battle of the Vipava in 394, would then have been an old man had he been a *praepositus laetorum* in 350/353. This argument is plainly inaccurate. Many epitaphs record soldiers gone in their sixties after some forty years in service. As for commanding officers, barbarian princes or roman noblemen, only death would put an end to their career⁹⁶. Arbogast, a “barbarus exul” who became at a time the real ruler of the Western Empire, was a die-hard, at sixty-five he would not be impotent, and anyway he was not supposed to lead the charge. Let us go back to the asymmetry between the chieftains’ names and the place-names and its explanation: if Arogast in the prologue does not go with an Arohem, but with a Bothem/Bo-dechaem, it is because the then young Arbogast was likely a delegate (*vicarius*) of his kin, the Frankish general Bauto/Baudo. Albeit it forgot the reason why, the tale would not modify the particular.
- 55 The second radical in Arbogast’s name, *gaest*, had seasonably been used by the tradition to record in an acceptable manner the guardian spirits. But the three other identified characters had but short names – Gaiso, Nevitta, Salia –, as often in the army where barbarian names rasped the latin mouths or ears. They died sooner than Arbogast, likely because they were older. If Gaiso was put to death in 353, Nevitta, known in 358, died not much after 362, Salia died in 372. The philological criticism has worked on the names of the last two: we are told that shortened forms in *-a* being used only by Eastern Germans, the two men could not have been “chosen amongst the Franks”⁹⁷. Let us have a better look.

- 56 We had identified Widogast as Nevitta, understood *HnaepWita and translated “Knock-head Guy”. The first radical was drawn from Amianus’ remark that the man was “rude and fierce”, and by the military practice of the centurions using their staff to hit the men’s heads. But “Guy”, we have to confess, was an approximation: Witta is not Wido. Nearer to the precise form, we must look at old-english *wit(t)a*, “wise, counselor”. Nevitta was an ironic nickname: the “Wise” taught the men by using bountifully his officer’s staff⁹⁸. The terminal *a* of his name has nothing to do with an *ostgermanisch* form. Anyway, in 358 Nevitta was *equestris turmae praepositus* in Gaul and in 361 *magister equitum*, again in Gaul, a career which is not likely for a Goth at that time.
- 57 The same goes for the second name, Salia. It had been borne by a *magister equitum* in Gaul in 344-348 who in that region and at that time could hardly be a Goth. As in the name of the *Salii*, the first radical is the magic bond, the wolf’s leash (*sâl*). Judging by the name of the *Salii*⁹⁹, it should not be a shortened form, even if its brevity suited the military use: *-a* could be a second radical, the name being perhaps *SaleAe, “Law by the Bond”, a good name for a chief of the *Salii*¹⁰⁰.
- 58 Last but not least, Wisowast or Wisogast whose name was mentioned first. He would be Gaiso, the *magister militum* of Magnentius in 350, a shortened form in *-so* with a gaulish pronunciation of the initial *w*, *war>guerre*¹⁰¹. The three other officers would have been his deputies, the *praefecti* of the *praepositurae laetorum* between Leie and Rhine, Arbogast being lieutenant (*vicarius*) of Baudo. The estates were their prefect’s tenure, their *beneficia ad opus publicum*. Gaiso was too high-ranking to be spared in 353, he was put to death, but, as was done throughout the period, the emperor kept the three others in his service¹⁰². Such was likely the historical background of the legend.
- 59 Years went by and the collective memory slowly transformed the personality of the law-makers. The pronunciation of their names shifted slightly to have them wear the masks of the “everlasting wights of the dream”¹⁰³. The *traditionskern* showed up in the shorter prologue which kept the memory of what had been the law for the Franks: a *pactus*, as said the *referendarius* Asclepiodotus – a lawyer, he was probably right in his field, since there had been a *foedus* –, but

also, in his own word, a *decretum*, for the Franks a doom, a judgment by *electi*, very chosen men indeed, the spirits of the *faida*, the wolf-ancestors. The new law which deprived the Franks of their old feud custom could not exist but by the gods' will¹⁰⁴, a pact indeed, a covenant with the Powerful-ones. Thus the tradition could forget the yoke of the *deditio* to Julian which had unfortunately followed the *foedus* with Magnence. Of course tradition just not goes on by intrinsic strength and its resumption in Austrasia after the death of king Sigebert was no accident. It expressed a try by the queen-regent, "the most glorious lady, dame Brunehaut" to win popularity with the chiefs of the great lineages, granting them the Frankish law as a making of the forefathers who were the stems of the kins¹⁰⁵. In some 9th century manuscripts, the shorter prologue was still written alongside the longer though the later had been made precisely to replace the former. That too was no accident, rather a go at the carolingian king's heavy authority.

60 But wolves, even wolf-wights, seldom write. Writing what is to be writ was a king's work. Who was then the law-maker?

B. The law of the unnamed king

61 The epilogue, as we have seen, credited the writing of the law to a "first king of the Franks". This element is no much more historical than the four *electi* of the shorter prologue. The *notarius* had acknowledged that this first king lived "a long time ago". Curiously enough, the tradition is there less than talkative. Gregory of Tours had already declared, as an echo to the epilogue: "Who was the first king of the Franks, many ignore it"¹⁰⁶. A strange wording: if many ignore, do some know? And did Gregory? The good bishop, as ever crafty, does not insist and brings forth his sources, quoting the former century historians, Sulpicius Alexander and Renatus Profuturus Frigeridus, who named no first king, only *duces* or *reguli*. Why had Childebert's *notarius* no name for the king who had the Salic law written?¹⁰⁷

62 Recent studies, namely Renard, have drawn attention on two dating elements for the text: one is in the *Pactus Legis Salicae* itself, the other is in a political source, a court-poem for emperor Honorius¹⁰⁸.

63 In the *Pactus Legis Salicae*, compensations are worded in *denarii* whose equivalence in *solidi* is systematically given, forty silver *denarii* for one gold *solidus*. Not many among the common Frankish *parentillae* had gold, silver coins were much more in use. But the fines imposed by the courts, as all other taxes for the imperial lord, were demanded in gold. Whence the importance of a fixed rate of exchange. Philipp Grierson has demonstrated that this rate of $\frac{1}{40}$ was decreed by Honorius, in 393-423, perhaps precisely in 397¹⁰⁹. Now the redactor of the *Pactus* not only repeats the rate for every given fine, but he has added to the law, under the title *Incipiunt chunnas*, a table of equivalences to estimate in *solidi* the hundreds of *denarii*. We thus learn two things: that the hundred courts could decide fines unspecified by the law and that the equivalence in silver of such fines could be disputed, which indicates that the ratio was not yet customary, but recently established. This points at a redaction towards year 400.

64 There comes the second element. In 398, an administrator and courtier of Honorius, Claudian, composed a poem against the eunuch Eutrope, Eastern imperial prefect and sworn enemy of the Western emperor and his generalissimo Stilicho. The eunuch had just been distinguished by a consulate, whence the wrath of Stilicho. In the poem, an allegoric Rome, shamed by the baseness of her new consul, wants to complain to the emperor, she crosses the Pô, flying "to the camp of his *rector*", Honorius, at Milan. There, what a contrast with the feeble Arcadius and his knavish minister! After Stilicho's campaign on the Rhine, the emperor:

haughty gave answers to the begging Germans from beyond (the Rhine), with his sign he marked laws for the Chauci, rights for the red-haired Suabians. To some he grants kings, with them he concludes treaties after being given hostages; the others he writes down for the employments of war, so that the shorn *Sicambria* serves under our banners... What could I (=Rome) under thy principate, fresh facts do teach: the sea milder once the Saxon is tamed, Britain now safe since the Pict is broken, at my feet I enjoy the Frank humble and the sad Suabian and I see, o German, that the Rhine is mine"¹¹⁰.

65 The next year, Rome's complaint had been heard: Eutrope was put to death and Stilicho was given a consulate. Claudian, back to his toady's

job, pronounces the general's panegyric and tells us more about the new kings:

Province will expel the governors sent to it before *Francia* does the same to the kings by thee given. We do not with an army repel rebels any more, with chains we now can punish them, under our justice a Roman prison claims the kings' crimes. Marcomer and Sunno do teach us: one of them to the end endured a Tuscan exile, the other, posing as the former's avenger, under his own people's steel has fallen, brothers in mind and criminal desires, eager to stir up revolutions, mad with the hate of peace¹¹¹.

This same year, as we have seen, Honorius, that is Stilicho, set again the grants of *terrae laeticae*.

- 66 Much later the *Liber Historiae Francorum*, noting the legendary arrival of the *Sicambri* in the castles of the Rhine, told that, on the counsel of one of their chieftain Marcomer, the Franks chose for king Faramund son of Sunno. Most probably the clerk, like Gregory of Tours, had read Sulpicius Alexander. Such had been the *res novas concire* of the two confederates: to take advantage of Arbogast's death to elect a king, Marcomer withdrawing to the benefit of Sunno's son. One and the same king for all the Franks, right bank *foederati* or left bank *laeti*, a chief who would lead a mad war against the empire. A dangerous innovation indeed, and Stilicho's campaign put a stop to it.
- 67 Beyond the Rhine the *Germani*, free warriors or former federates, sued for peace and the lord emperor was good enough to answer their asking, although their former kings were punished¹¹². As seen before, the *Sicambri* – that is the *Chamavi* – became shorn *dediticii* and were put on the rolls to form the *Testrebant*¹¹³. The former *laeti* of the left bank, the *Salii* and the *Quadi*, referred to by Claudian under the ancient names of *Chauci* and *Suevi*¹¹⁴, had joined the rebellion, now they were prostrated and sad. The warning to the imperial government had been understood, the former *dediticii* will be given kings¹¹⁵. What counts is that the Rhine is “our”, the area becomes quasi-provincial, the kings are appointed by the emperor as he does for the provincial governors, military or civilian, *duces* or *praesides*.
- 68 Nonetheless, *divide ut imperas*, all Barbarians do not have the same lot. “Those” (*his*) – the *foederati Bructeri* and *Ampsivari* – have their

foedus renewed, they keep their status; “others” (*alios*) – the *Sicambri* once free – are inscribed in the military rosters, a lesser status; “these” (*his*) – the *Salii* and *Quadi* – receive kings, and Honorius also “marks with his sign” laws and rights (*leges et iura*) for them, the two words together meaning Law, not conditions in a treaty¹¹⁶; for the former *laeti* the *signatio* is an equivalent for a *foedus*, a better status¹¹⁷.

69 When after the intervention of the imperial army in 398/399 the short-lived Faramund disappeared, Honorius and his general Stilicho provided new kings for the peoples of the Lower Rhine. The one appointed to rule the *Salii* was very likely Thiudemer son of Ricimer, ex-general to Theodosius¹¹⁸. The old oral *pactus* of the *Lagenses* and other *Ingaevones* their neighbours had a revival. Written and enlarged, it was presented by the Frankish king to Honorius, and His Majesty was good enough to set his sign – *legi* written with purple ink by his august hand – upon a document in all respects so useful.

70 “Province will expel the governors sent to it before *Francia* does the same to the kings by thee given”. Unlucky oracle. Just before telling the famous raid of Clodio unto Cambrai, Gregory of Tours notes that “in the *Fasti consulares*” – likely a brief chronicle with the dating by consulates – he has read the murder of king Thiudemer and his mother. Since Martin Heinzelmann’s study of Gregory’s work, we know what may be thought of the bishop’s feigned naivety¹¹⁹. The setting together of the annalistic note about Thiudemer and the rise to power of Clodio may not be mere chronology. The success of the Merovingian lineage was built upon the downfall of others. Better forget who had been the “first king of the Franks”, the rebel Faramund, the faithful Thiudemer or the ruthless Clodio. While “many ignored it”, some actually knew, albeit with different preferences; as under the reign of Richard of Gloucester, it was not safe to ask who was the legitimate lineage before and the first law-maker king’s name was better forgotten. Nevertheless, the written *Pactus* outlived the turmoils of its creation.

71 The Salic law was first a *pactus*, an oral agreement made around year 350 between the commanding officers of an usurper in need of

troops and several groups of Frankish refugees themselves at bay. Its aim was to eliminate feud, the "système vindicatoire" which threatened military discipline. It assigned a fixed compensation for each customary action before the hundred courts, the list being kept in memory at the *mallberg* by its annual recitation. Then, at the turn of the century, the whole *lagu* was written by the king in charge of the Frankish troops in the *extrema Galliae*, this drafting being acknowledged by the emperor and later, with other such military rules, by the Roman code of Theodosius¹²⁰. This for the "singular coincidence" of Gibbon.

- 72 The *Pactus Legis Salicae* was therefore neither the Frankish custom, even if it did record many of its dispositions, nor the Roman law though it participated from it. It tried to conciliate both the penal Roman structure and the tribal uses of the clansmen, their "freedoms". The success, actually, was far from complete: the laws of the Britons or the Burgundians set limits to revenge but do not put an end to it, and feud was a general practice in the Merovingian kingdom, notwithstanding the old *Pactus*.
- 73 After the fall of the empire, the Franks could have left aside a system which claimed to cut short the best in a man's life, fight and palaver. But the Salic law had allowed them, as the prologue says, "to hold sway over the other peoples their neighbours", to conquer almost the entire Gaul thus turned into France¹²¹. The law remained, often eluded but accepted as a whole. It had become not only a law-book, but a *Traditionskern*¹²², in that case neither the exaltation of a *Heerkönig* and his followers, nor the noblemen's pride against royal authority, but a set of rules every free man would know and more or less accept¹²³.
- 74 As Gibbon had admitted with some condescension, "the laws of the Barbarians were adapted to their wants and desires, their occupations, and their capacity". Actually, these laws did not fit only Barbarians but many people in the empire, weary with the "grand strategy" of pretended *Kosmokratores* ineffective and the more arrogant. The written *Pactus* came during a harsh process of forced acculturation, when the refugees from across the border blended with the rustic subjects of the late Empire in the melting-pot of northern Gaul¹²⁴. Not much was then left of the "humanity and justice" Gibbon praised

in the Romans. The dereliction of the *pauperes* by the class who bore the “full civil wisdom” of the Roman code explains that the Salic law spread so easily¹²⁵. In 212, the *Constitutio Antoniana* had given Roman citizenship to all inhabitants of the *oikoumene*, except the *dediticii*. Some centuries later, the Roman law had turned into much simplified legal books, the *epitomae*, made for populations which had become regional communities, *Provinciales* or *Aquitani*, while the dependant peasantry, the *coloni*, worked under some sort of “law of the manor”¹²⁶. In the East, where the Roman Empire was to hold on for a thousand years more, Athen's democratic system, *il va sans dire*, had been abandoned for centuries. The praise for Athenian democracy or Roman Republic prevailed but long after, when humanist and democratic princes such as Henry Tudor, Catherine de Medicis or Albert of Hohenzollern would acknowledge these models while reading Machiavel. Though *demokratia* is claimed nowadays to be the peculiar Europe's heritage and identity, our governants still don't care much about it, the more when it concerns Greece, not to mention any providential exception of an “état d'urgence”.

- 75 If there was, at least partly, a “power to the people” in old Europe, it was not only because truly christian bishops and enlightened philosophers showed the right way to go. It was also because, at the end of the Roman Empire, the sophisticated *ius* of the *Amtsaristokratie* in the imperial offices was left aside. The elders and military officers, who were local chieftains, were judges. The popular *directum*, supposed plain and fair, had for a while the better: at least this law the free commoners in a hundred court could understand, and the “ol'uns” had better make a judgement they accepted since they had weapons and knew how to use them. Those who had not, well, mate... they 'ave accepted to pay, 'aven't they? The *tributarii* would endure what was left of the late Roman system, the original version of the “retenue de l'impôt à la source” in the big fiscal estates given *in beneficio* to a nobleman. The debts enslaved them to the same landowner who was in charge of the *tributum publicum* which put them in debt. The freemen's parentages did not care, they had their herstaples, their wapentakes, their gairethings, they had their law in their own hands and the king's court would only be ruling a few special cases¹²⁷. It lasted a couple of centuries till kings and kings' counsellors learned they had to enforce God's will through the *Renovatio Imperii Romani*,

and later of course, without God, the marvelous “*Quod principi placuit...*”. The lesson was longer to teach to the illiterate in those dark ages, and they never quite grasped it. Such was the imperfect start of European democracy¹²⁸.

NOTES

1 E. Gibbon, *The History of the Decline and Fall of the Roman Empire* (1776), J. B. Bury (ed.), London, 1906, p. 239. “It was probably composed in the beginning of the fifth century, before the era of the real or fabulous Pharamond. The preface mentions the four cantons which produced the four legislators, and many provinces, Franconia, Saxony, Hanovre, Brabant &c., have claimed them as their own”. Franconia, Saxony and Hanovre was the English point, the Law being thus Saxon and not French, cf. Shakespeare’s Henry V, 1.1: “There is no bar to stay your highnesse claime to France / But one which they produce from Faramound / No female shall succeed in salicke land / Which salicke land the French unjustly gloze / To be the realme of France / Yet their own writers faithfully affirme / That the land salicke lyes in Germany / Between the flouds of Saleck and of Elme / Where Charles the fifth having subdued the Saxons / There left behind and settled certaine French”.

2 “En adhérent à la foi catholique, ce dernier (Clovis), à sa manière et selon les conceptions propres à son temps, a pu guider des peuples différents vers l’édification d’une seule et même nation”, Adress to président Jacques Chirac, Tours 19.9.1996, http://w2.vatican.va/content/john-paul-ii/fr/speeches/1996/september/documents/hf_jp-ii_spe_19960919_presidente-francia.html

3 Clovis, *histoire et mémoire. Actes du Congrès international d’histoire de Reims, 19-25 septembre 1996*, M. Rouche (ed.), Paris, 1997 (abr. CHM). For the historiography see L. Theis, *Clovis: de l’histoire au mythe*, Bruxelles, Paris, 1996.

4 Ch. Grell, “Clovis, du Grand Siècle aux Lumières”, *Clovis chez les historiens*, O. Guyotjeannin (ed.), *Bibliothèque de l’École des Chartes*, 154, 1996, p. 172, and Ch. Amalvi, “Le baptême de Clovis: heurs et malheurs d’un mythe fondateur de la France contemporaine, 1814-1914”, p. 241. In England, Gibbon still held for Faramond, *supra* n. 1. About the male use, E. Viennot, *La France, les femmes et le pouvoir. L’invention de la loi salique (v^e-xvi^e s.)*, Paris, 2006.

5 Thus Godefroid Kurth: "Avant (Clovis) cette loi était déjà arrêtée et fixée dans un ensemble de formules non écrites mais confiées à la mémoire et conçues dans l'idiome germanique des Francs. Cette rédaction germanique primitive, non mise par écrit, c'est évidemment celle qui fut l'œuvre des quatre prud'hommes, au dire de la tradition franque... Tout porte à croire que la première rédaction latine de la loi et sa mise par écrit sont du temps de Clovis. Le Grand prologue de la loi, sans le dire explicitement, marque cependant en termes formels le souvenir de l'activité de ce grand roi; l'épilogue parle également de Clovis bien qu'il ne le nomme pas, et tous les deux ajoutent qu'il a fait des additions à la loi", *Clovis* (1895), ed. 1978, p. 575. Kurth distinguishes a "first latin redaction in the time of Clovis" and "an oral redaction" (sic), more ancient.

6 CHM, p. 202 and 391. Kinship, J.-P. Poly, 1996 and 2006, *infra* n. 14.

7 Not of course the Pandects of Justinian, as wrote Gibbon.

8 *Tunginus*, sometimes linked with the *thing* or the *tungerefa/villicus*, is rather akin to o.e. *gethungen*, "rised (upon the shield?)", *heahthungen*, "high ranking", both meanings being conciliable (cf. Aelfric's gloss *emeritus, provectus*; J. Bosworth and T. N. Toller, *An Anglo-Saxon Dictionary*, Oxford, 1898, abbrev. ASD); K. Modzelewski, *L'Europe des barbares*, Paris, 2006, p. 268, compares with the *heradshöfding* or the *godi*.

9 PLS, 46.6: "*aut ante regem aut in mallo publico legitimo, hoc est mallobergo anttheoda aut thungino*" (corr. *aut theoda(n)*), "or to the theoden or to the thungen".

10 This older version was the Law in 65 titres alias *Pactus legis salicae* (ed. 1962, K. A. Eckhardt, MGH *Legum sectio I, LL nat. germ.*, 4.1, abbrev. PLS). Vast bibliography, see R. Schmidt-Wiegand, "Lex Salica", *Reallexikon der germanischen Altertumskunde*, 18, 2001, H. Beck, D. Gevenich, H. Steuer et alii (ed.); compl. by R. Schmidt-Wiegand, "Der Sermo rusticus und die Lex Salica", in *Entstehung des Deutschen: Festschrift für Heinrich Tiefenbach*, Heidelberg, 2004, A. Greule et alii (ed.), p. 427; W. Haubrichts, "Namenbrauch und Mythoskonstruktion. Die Onomastik der Lex Salica Prologue", in *Nomen et Fraternitas, Festschrift für Dieter Gevenich*, U. Ludwig and Th. Schilp (ed.), Berlin, 2008, p. 53; E. Renard, "Le Pactus Legis Salicae, règlement militaire romain ou code de lois compilé sous Clovis", *Bibliothèque de l'École des chartes*, 167, 2009, p. 321 (abbrev. Renard); K. Ubl, "L'origine contestée de la loi salique. Une mise au point", *Revue de l'Institut français d'histoire en Allemagne*, 1, 2009, p. 208. The text was of course not a

code intangible as was the Theodosian, J. Harries, *Law and Empire in Late Antiquity*, Cambridge, 1999, p. 70.

11 Passages named malbergic glosses; the Frankish terms do not gloss the latin text, it is rather the latin text which spreads out the customary designation of the actions. We shall explain them after the old English, a language akin to the Frankish dialects with an ancient, diverse and vast written vocabulary.

12 PLS, 2.16 (theft of the sacrificial piglet): *anomeochamitheoto*, **anaem eo hamtheode*, "take/offering to the Yew for the ham folk" (cf. old engl. *nid-naem et eo/iw*; *geweihter Gemein-Barch* in the translation of Eckhardt, in 1955, rather a paraphrase of the latin); 55.4 (despoiling a tomb): the *wargus* is banished *antiqua lege*; 64.1 et 64.3 (witchcraft). In 55.6-7, cf. 65b, looting or arson of a *basilica*, perhaps an addition (cf. 55.7). T. M. Charles-Edwards, "Law in the Western Kingdoms between the fifth and the seventh century", in *Late Antiquity: Empire and successors*, A. Cameron et alii (ed.), Cambridge, 2000, p. 260; later paganism, P. Demolon, "Les Francs et le christianisme à l'époque mérovingienne dans le nord de la France", *CHM*, 2 (*supra* n. 3), p. 831. J.-P. Poly, *Le chemin des amours barbares*, Paris, 2003, p. 176. In "Débats médiévaux autour de la peine de mort", *La peine de mort*, I. S. Papadopoulos et J. H. Robert (ed.), Paris, 2000, p. 89, J.-M. Carbasse notes that the Gaulish bishops may have preferred the compensation system to the death penalty. Legal barbarism might have its advantages.

13 About these elements, *infra* II.

14 J.-P. Poly, "La corde au cou. Les Francs, la France et la loi salique", in *Genèse de l'État moderne en Méditerranée*, H. Bresc et alii (ed.), Rome, 1993, p. 287; *id.*, "Le dernier des Méroings", *Revue historique de droit français et étranger*, 74, 1996, p. 353; *id.*, "Terra salica, de la société franque à la société féodale: continuité et discontinuité", in *Les origines de la féodalité. Hommage à Claudio Sanchez Albornoz* (colloquy of Madrid 1993), J. Pérez and S. Aguadé Nieto (ed.), Madrid, 2000, p. 183; *id.*, "Le premier roi des Francs. La loi salique et le pouvoir royal à la fin de l'Empire", in *Auctoritas, Mélanges offerts à Olivier Guillot*, G. Constable et M. Rouche (ed.), Bonchamp-lès-Laval, 2006, p. 97; J.-P. Poly, "Sous les chênes de Salaheim. La loi salique, l'armée romaine et le bilan de la barbarie", in *Civitas, Iura, Armae* (Colloquy of Cagliari 2012), F. Motta, V. Marota, L. Lo Schiavo (ed.), 2015.

15 For Raymond Verdier, *le système vindicatoire* opposed to *l'acte vindicatif*, pulsion and doing, *infra* n. 16.

16 On this system, introduction by R. Verdier, in *La Vengeance, I: Vengeance, pouvoirs et idéologies dans quelques civilisations de l'Antiquité*, Paris, 1984.

17 P. Riché and P. Périn, *Dictionnaire des Francs*, n. ed., Paris, 2013.

18 Cf. already Kurth *supra* n. 5; O. Guillot, "La justice dans le royaume franc à l'époque mérovingienne", *Settimane di Studi del Centro italiano di studi sull'alto Medioevo* (CISAM), 7-13 aprile 1994 (Spoleto, 42), Spoleto, CISAM, 1995, p. 653 (reed. J. Hoareau-Dodinau, *Arcana Imperii*, Limoges, 2003). K. Modzelewski notices the same about Rothari's Edict, *L'Europe, op. cit.*, p. 43 and 46.

19 Cf. Renard, and Ubl, *supra* n. 10. Brief review of other authors *pro et contra*, J.-P. Poly, *Sous le chêne* (*supra* n. 14). For Ian Wood, "(Poly's) argument even I find too extreme", *Rome and the North*, A. Ellegardet G. Akerström-Hougen (ed.), Jonsered, 1994, p. 5.

20 PLS, 41.1, 14.2 (robbery): *Si Romanus <homo> barbarum...Salico expoliaverit*; 14.3: *Si Francus Romano...*; 16.5 (arson): *Si Romanus hoc Romanum admiserit...* (only A2); 39.5 (*plagiatus*): *Si (quis) Romano plagiaverit...* (only A2); 41.1 (manslaughter): *Si quis vero ingenuum, Francum aut barbarum qui legem salicam vivit, occiderit...*; 41.8: *Romano homine conviva regis*; 41.9: *Si Romanus homo possessor <et conviva regis non fuerit>*; 41.10: *Romanum tributarium*; 42.4 (murderous assault): *De Romanis vero occisis vel letis <et pueris>*; 71.1 (castration): *Si Salicus Salicum castraverit*. The "other barbarians" Renard (n. 64) thinks could be scythian groups; but their customs were quite different, J.-P. Poly, "Les trois flèches des Pakhtouas. Ordalie et acculturation en Gaule à la fin du IV^e siècle", *Droit & Cultures*, 65, 2013, p. 17.

21 Were the Franks heavily dominants? The kettle-ordeal (PLS, 16.5, in A2) is celtic (S. Kerneis, "Les ongles et le chaudron: pratiques judiciaires et mentalités magiques en Gaule romaine", *Revue historique de droit français et étranger*, 83, 2005, p. 155, after R. Bartlett, *Trial by Fire and Water. The Medieval Judicial Ordeal*, Oxford, 1986) and the scale of the compensations (PLS, 41) might not be a superiority (H. Brunner, *Deutsche Rechtsgeschichte*, Leipzig-München, I, 1906, p. 326). The "ham folk" (*supra* n. 12) was a small peasantry of stock-breeders, H. Siems, "La vie économique des Francs d'après la *Lex salica*", *CHM* (*supra*, n. 3), p. 608.

22 The name was questioned by M. Springer, "Gab es ein Volk der Salier?", in *Nomen et gens. Zur historischen Aussagekraft frühmittelalterlicher Personennamen*, D. Gevenich *et alii* (ed.), Berlin, New-York, 1997, p. 58; Ammian's "all together" (*infra* n. 23) indeed points to a coalition of different groups, but

the mere use by Julian of the name of the roman Salians' *collegium* is unlikely. Ammian considers the name to be customary, it must have been substituted for another some generations before. But it may have been heard as a latin homophony.

23 Ammianus Marcellinus, *Histoire*, 17.8.3-4 (ed. G. Sabbah, Paris, 1970; abrev. Amm.). *Olim*, not "in old time", excluded by the situation of the empire in the beginning of the century, but an ironic "some of these days", "un beau jour", under Constant in 342 or Magnence in 350, E. Demougeot, *La formation de l'Europe et les invasions barbares de l'avènement de Dioclétien au début du VI^e siècle*, Paris, III, 1979, p. 93. Zosime, *Histoire nouvelle*, 3.7.2 (ed. F. Paschoud, Paris, 1979; abrev. Zos.).

24 *Tractus* was first "a stretch (of land)", generally determined, e. g. *tractus oppidi*, *tractus venafranus*. Later the Saxons looted the *gallicanos tractus* (Amm. 27.8.5), not all regions in Gaul but the (*milita*)res *tractus* (Amm.30.7.8), the coastal military districts, among which the *tractus nervicus* (*infra* n. 60).

25 Zos. 3.6.1-3; in 498/518, he follows the *History of Eunapius*, itself based on the *Annales* of Nicomachus Flavianus (334-394) (S. Ratti, "D'Eutrope et Nicomaque Flavien à l'Histoire Auguste.", *Dialogues d'histoire ancienne*, 25, 1999, p. 247, as Paschoud). The *Quadi* have been questioned since the name designates another group settled on the left bank of the middle Danube (Paschoud, II, p. 76 n. 15); but see *infra* n. 46.

26 *Se dedentes*, εκδιδοντες. K. F. Werner, *Histoire de France I, Les origines*, Paris, Fayard, 1984, p. 260: "Des peuples de la ligue franque avaient profité de l'usurpation de Magnence... pour occuper massivement la Batavie et pour étendre leur emprise en Toxandrie... Julien permit aux seuls Francs saliens de s'établir... en qualité de *dediticii*...". For Renard, p. 327, "défaite et *deditio* des Francs saliens... sont clairement datées par Ammien et Zosime du règne de Julien l'Apostat, plus précisément de l'année 358", a confusion between arrival in the empire, *olim* (*supra* n. 21) and defeat; he sets rightly aside "le renouvellement d'une *deditio* antérieure"; indeed, there was most probably a *foedus* in 350, hence the *pactus* (*infra*) replaced in 358 by the *deditio*.

27 *Dediticii* as *coloni*, A. Barbero, *Barbares.Immigrés, réfugiés et déportés dans l'empire romain* (2006), Paris, Tallandier, trad. 2011; he excepts the *Salii*, p. 93-99 et 130. "The Cesar recruited the *Salii* and part of the *Quadi* and of those who were in the Batavic island... for units which, as can be seen, still exist nowadays... Julian continually increased his army", Zosime 3.8.1 and 4; καταλογος is the Greek for *matricula*, "the mum", the pay rooster

which fed the soldier, Végèce, *Epitome rei militaris* 1.26 et 2.5 (c. 390); CTh. 8.4.20 (407) for civilian *cohortales*; Procopius, *cit. infra* n. 41.

28 Cf. the plates in the *Notitia Dignitatum* (*infra* n. 38) where there has been shifts between names and shields, cf. Seeck ed., introd. p. XX. *Salii*: Or.5.9=5.51 might be the *Laeti* sent by Julian, blue with two birds (hawks or Woden's crows), not the *Brachiati*; Oc.5.29=5.177 with the bond (*sal*); Oc 5.36=5.210 with a friendly white wolf. *Brachiati*: white with arm-rings, Or.5.11, cf. Oc.5.20-21=159, confusion with the *Mattiaci*. *Batavi*: red with horns (for *seniores*) or without (*juniores*), Or.5.10, cf. Oc.5.19 and 38=5.163 et 186. *Mattiaci*: blue, Or.5.8 cf. 6.13 and Oc.5.15=5.164/165 (confusion with the *Brachiati*), Oc. 5.209= 5.49 (the blue, too expensive, was omitted by the first copyist in the whole page and those after). The blue was Woden's colour, the red Thunaer's/Thor's, the yellow Freyja's, the white the *Ingaewone Cimbri's* (Plutarque, *Vies, Marios* 23.7, vanic bull; 24.9, color; R. Flacelière ed., t. V, 1971). With some different identifications, P. Berger, *The Insignia of the Notitia Dignitatum*, New York, 1981, compl. by L. Ueda-Sarson, *Later Roman Shield Patterns from the Notitia Dignitatum*, online.

29 “Sous les noms de Cimbres, Teutons, Goths, Germains, Slaves et combien d'autres, agirent et réagirent sans trêve une multitude confuse d'éléments ethniques, dissimulant leur diversité sous des parentés d'étiquettes mais étalant d'ailleurs la même incapacité à dégager de l'humus des forêts, de la boue des marécages leurs formes politiques longtemps confuses, comme à demi enlisées” (sic), L. Febvre, *Le Rhin, Histoire, mythes et réalités* (1935), Paris, 1997, p. 80. Most of the time the alleged philology goes back to Müllenhof though the problematic has somewhat changed; when it comes to ethnic names, philology cannot set aside anthropology (cf. the *Salii* *infra* n. 31). Current summaries about the following names will be found *propriis verbis* in the *Reallexikon der germanischen Altertumskunde* (*cit. supra* n. 10) whose second rejuvenated edition reached completion in 2009.

30 *Ingaewone's* elements: PLS, 59, *De alodis*; PLS, 44, *De reipis*; PLS, 2.16, sacrifice of the pig, Freyja's animal (*cit. supra* n. 12). Pliny, *Hist. Nat.* 4.96 and 99-100, Poly, *Le chemin*, *op. cit.*, p. 78, 95, 99. *Chauci* has been linked with Hohe and Hügel; we proposed *HohHoc, “High Hawk” (collective singular); the hawk is nor. *haukR*, dan. *hög*, suéd. *hök*, the o.e. distinguishing animal and men by a prefix, *haf/heaf-hoc, “the hawk which rises” (as ohg. *habuch?*); *hoh*, *heah* is for the predominant position of the group, “*populus inter Germanos nobilissimus... superiores agunt*” (Tacitus, *Germania*, 35), a

contrast to their kin left in the Αλοκια islands, *AlHokAe(g)e, “All hawks islands”, known as *Cimbri* (cf. the voyage of Pythéas, J.-P. Poly, “Ballade d’un Grec et des gens de Thulé”, in *Vertiges du Droit, Mélanges franco-helléniques à la mémoire de Jacques Phytillis*, H. Helmis et alii (ed.), Paris, 2011, p. 303). The hawk was Freyja’s animal, as was the pig (*supra* n. 12) and the cow, whence the form *Cauci*, *CoHoc, *infra* n. 110. There was probably no *Chauci* (cf. *Beowulf* v. 2501-2508, ed. R. W. Chambers, London, 1920; see also v. 1081-1082) in the country of the *Hetware* (*infra* n. 32): *syhdhdhan ic / forduged hum Daeghrefne weardh / to hand bonan, hug(n)a cempa*n, “ever since I killed Dayraven the Frank in front of the two armies” (A. Orchard, *A critical companion to Beowulf*, Woodbridge (GB), 2003, p. 231); “Dayraven” was champion of the frankish king Thierry alias Hug-Dietrich, maybe akin to Huginn, Odin’s crow, and to the Hugmerki in Frisia, whence, in the *Beowulf*, *Frescyn-ing*, “king in Frisia” not “of the Frisians”.

31 The first radical, o.e.sal, “bond, halter” (>to sell, formerly handing over by the halter?) is sure, because of the shield (*supra* n. 28) and the anthropologic likeliness (who would accept to bear a name meaning “dull, dirty”, fr. *sale*; who would call a group “the halls”, fr. *salles*? The old philology is sometimes suprising). The name shows the *Salii*’s faith in Wodan, normal among *Hermioniomes* tribes, but original for people who stayed *Ingaewones* (*supra* n. 30). Responsive to philological criticism, we have to explain the last syllable: the second *-i* is of course the mark of the latin declension, the first *-i* could be *i(w)*, a second radical designating *Ingaewone* as devouts of the vanic tree. “First among the Francs” (*supra* n. 23).

32 The suffix *-ware* means those who “ware” a land, who ward it; it cannot be Hessen (land of lesser *Hatti*, *Hattsi), but that of the *Hatti/Sugambri*, *Batavi* and *Chamavi* (Tacitus, *Germania*, 29, ed. J. Perret, Paris, 1983; R. Much, *Die Germania von Tacitus* (1822), Heidelberg, 1967, p. 367 and 379). The name *Hettware* could be applied to any group living in this area; the three mentions in the first century, in Velleius Paterculus and Strabon, would designate a group different from the *Emsware-Broughthere*.

33 J.-P. Poly, 2006 (*supra* n. 14)

34 Land of the *Salii*: *Salahom*, 9th c., *Sallant*, 12th c. (M. Gysseling, *Toponymisch Woordenboek van België, Nederland, Luxemburg, Noord-Frankrijk en West-Duitsland*, Gent, 1960, abbrev. TW, p. 885); perhaps “home for the Bond (people)”; Gysseling thinks to a plur. dat. **Salahum*, “to the Salahas”. Also called *Ijselgow*, *Islegowe*, 8th c. (L. Vanderkindere, *La formation territoriale des principautés belges au Moyen Âge*, Bruxelles, 1902, II, p. 311; abbrev.

FTPB). *HàmHawe, “At Home Observers”; in the first century one fraction of the Sicambri stayed in Gelderland, the other part being the Batavi, *BaetHawe, “Observers (who went) in a Dispute” (better than “tribute”, Poly, 2006, *supra* n. 14); Hamalant, *terra saxonica*, FTPB (n. 33) II, p. 304. In the 9th century the three counties of Hamaland (=Graafschap Gelder), Betuwe and Testerbant were a *ducatus* surrounded by Saxland, Friesland and Maa-sau, with a law different from the Salic law, *ewa quae se habet ad Amorem* (*AmOra, “The Uncle’s Bank”, cf. in the North the island Amavia, *AmEa, which became after the great floods the tiny island of Ameland; MGH, LL V, p. 269, tit. 44 and 26-29). Considered as *(Sug>Sig)AmBaere, and speaking (h)attica lingua (*infra* n. 81). They were I(d)staewone, worshiping Thor, but allied to the vanic bull (J.-P. Poly, *Le chemin*, p. 78 and 115). Become *dediticii*: “Shorn Sicambria serves under our ensigns”, *infra* n. 113.

35 Tacitus, *Germania*, 25, comm. by Much, *op. cit.*, p. 325, quoting Rigsthula 22, and G. Perl, *Tacitus Germania*, Berlin, 1990, p. 196. Gaius, 1.9-14: “Et quidem summa divisio de iure personarum haec est quod omnes homines aut liberi sunt aut servi... Lege itaque aelia sentia cavetur ut qui servi a dominis poenae nomine vincti sunt... et postea manumissi, eiusdem conditionis liberi fiant cuius condicionis sunt peregrini dediticii. Vocantur autem peregrini dediticii hi qui quondam adversus populum romanum armis susceptis pugnaverunt deinde victi se dediderunt” (ed. J. Reinach, Paris, 1979). Since he explains civil law, not military, Gaius just mentions the *peregrini dediticii*. Renard, p. 343, for lack of distinction between the two meanings of *laetus*, considers the absence of the second in the PLS as an evidence that the *Salii* never were *laeti/dediticii*.

36 *Infra* n. 110.

37 “Quoniam ex multis gentibus sequentes romanam felicitatem se ad nostrum imperium contulerunt quibus terrae leticae administrandae sunt, nullus ex his agris aliquid sine nostra adnotatione mereatur. Et quoniam aliquanti aut amplius quam meruerant occuparunt aut concludio principalium vel defensorum vel subrepticis rescriptis maiorem quam ratio poscebat terrarum modium sunt consecuti, inspector idoneus dirigatur qui ea revocet quae aut male tradita aut improbe ab aliquibus occupata” (CTh 13.11.10). CTh 7.15.1. *Summarium* (CTh MS Vat. Reg. Lat 886) quoted by H. Brunner, *Deutsche Rechtsgeschichte*, Leipzig-München, I, 1906, p. 54.

38 The references are to the old edition by O. Seeck, *Notitia dignitatum* (1876), reed. 1983 (abrev. ND). P. Brennan, “The *Notitia Dignitatum*”, in *Les littératures techniques dans l’antiquité romaine*, ed. C. Nicolet, Genève, 1996,

p. 230; C. Neira Faleiro, *La Noticia dignitatum. Nueva edicion critica y comentario historico*, Madrid, 2005, gives a survey of the bibliography (Jones, Clemente, Hoffmann, Treadgold) and the latest datations. We disagree about some points: the *praefectus laetorum nerviorum* is “of the *laeti nerviorum*” not “of the *laeti nervii*” (ND, Oc 42.39), in the territory of the gaulish *Nervii* between the *Eburones*, annihilated by Cesar, and the *Menapii*. There, a little before 297, had been settled the Frank *receptus in leges*, “accepted in the laws (of the emperor)”, a *dediticius* “at the emperor’s conditions” (*Panegyriques latins* IV, 21.1, ed. E. Galletier, Paris, Les Belles Lettres, I, 1949); at the same time the former *laetus* (of the *Hatti Mattiaci*) was *postliminio restitutus*, “re-established (in its status) according to the *postliminium* right”, this status being his old *dediticia conditio*, as a group with a territory and not spread in the cities territories as were the new *dediticii* turned in *coloni* (Tacitus, *Germania* 29); he was settled again as *dediticius* among the *Treveri*, North of Ivois (*praefectus laetorum actorum* (corr. *Attorum*) *epuso belgicae primae*, ND, Oc. 42.38; the medieval *pagus Mattensis?* FTPB (n. 33), II, p. 348). Barbero (*supra* n. 27) rightly emphasizes the rustic status of the new *dediticii*, but sees the *praefecti laetorum* as officers in charge of provincial prisoners freed from the barbarians, but the laws insist the ex-prisoners must be sent back in their province. Reserves for the auxiliary units (*reliquationes*), S. Kerneis, *Les Celtiques, servitude et grandeur des auxiliaires bretons dans l’empire romain*, Clermont-Ferrand, 1998, p. 215 and 66 (*pseudo-civitates*).

39 ND, Oc. 42.43. O.e. *lagu*, plur. *Laga* (*lah* in compound), “what is layed down”, replaced *ae(w)/ewa* (C. T. Onions, *The Oxford Dictionary of English Etymology*, Oxford, 1966), still used in pagan Saxland, in the county Amor on the Lower Rhine (*supra* n. 34) or in England. The suffix *-ensis* implies a place-name; near Tongres, it is Lauw/Lowaige, 12th century *Lude*, *Leuuege*, *Lewege*, with deglutination *Le Wege*, *weia/wegia* (TW, p. 598). The form *lude* seems to exclude *hlaw*, “mound”, pointing rather at the compound **lâh-wede*, “law pledging”, Flemish equivalent of the wallon form, the Flemish afterwards keeping only the simple form Lauw=Lâh. In the “ban de Lauw” was the mound of Herstappe, *Harstaplia* (TW, p. 486); Gysseling quotes rightly *Lex Rib.* 33.1, were *intertiatio* is done *ad regis stapplum vel ad eum locum ubi mallus est*, qui était “la pierre du roi/königstein”, a column near the old *praetorium* of Cologne; o.e. *stapol* means both “pillar, post” (were the shield was hoisted, *infra* n. 54) and “gathering place”, thus Herstappe would have been “the army muster” and Lauw/Lowaige would be the central *mallberg* where the PLS of 350/353 was recited each year and the men pledged

their word for its observance. The near Fexhe indicates a *fiscum* (TW, p. 355).

40 “The prefect of the Suabians at Angoulême in Aquitania IIa” (*Arumbernos*, corr. *Anculemos*; not *Arvernos*, in Aquitania Ia); as the list runs by provinces from West to East, this *praepositura* seems to have been added in a likely blank between a *praepositura* in Germania and a second blank left as it was by the copyist, the previous mentions in both blanks having concerned Germania (ND, Oc. 42.44). The canceling could be a correction after the revolt of Clodio; the adjunction of a *praepositura* at Angoulême would have been made after the reconquest by Aetius, sending men from suppressed pro-Clodio districts to other regions.

41 “Εκ των καταλογων ες τοδε του χρονου δηλουνται και σημεια τα σφετερα επαγουμενοι ες μαχην καθιστανται”, Procopius, *History of the wars*, 1.12.9-17 (with an English translation by H. B. Dewing, London, 1961). The Αρβορυχοι have been identified as “Armoricans” as soon as the 18th century and unfortunately remain such, though the localization near the Rhine by Procopius makes this identification unlikely if not impossible, as Gibbon had already noticed. They would be the remains of the *Bructeri*/**BrohtHere*, who were left over of the once glorious *Cimbri*.

42 The word appears in the 6th century, precisely in Procope (Poly, 1993, cit. n. 13). Six units (*numeri/arithmoi*) made a division (*moira*); in Maurice's *Strategikon*, the unit commanded by the tribune is still named *bandon*, albeit it then had no more than 400 to 200 men, W. Treadgold, *Byzantium and Its Army, 284-1081*, Stanford (Calif.), 1995, p. 94. Gysseling (TW, p. 98), proposing *banti*, “region”, gives in *Bante*, at Texel, 9th c., and *Bant*, an island in the *Vita Liudgeri*, not districts but place-names which perhaps named the commanding forts of the Frisian and Chauc auxiliaries of the first century. About the importance of place-names, C. Archan, “Les règles de droit dans la prose des *Dindshenchas* de Rennes”, *Droit & Cultures*, 64, 2012, p. 91.

43 *Pagus Brabantensis* in the 7th century; first radical obscure (NW, p. 178); *bracan/breacan*, breaking the enemy, is uncharacteristic among warriors; *broga*, “terror” (Poly, 1993), is not very characteristic too; **B(ae)rEace*, “addition” to the *Sicambri* who “bear” their maternal uncle (Poly, *Le chemin*, p. 87) is far-fetched. There was an auxiliary unit of *Brachiati*, “those with the bracelets”, the arm-rings painted on their white shields (ND, Or. 5.11=5.50 and Oc. 5.20-21=5.159 were the bracelets ar in a cross, better in a Christian army; Or. 5.11 has four bracelets for the four hundreds? About the shifts, *supra* n. 28); we could then understand **B(eah)Raece*, “Present the Bracelet”

(on their shield), the complete name of the unit being eventually *B(eah)RaecEaht, “The suit/kin (nor. aett) presenting the bracelet”, of course attracted by the latin. *Pagi minores* in the 9th c.: Hal/Halle, Bruxelles, Aalst/Alost, Ename, cf. FTPB, II (*supra* n. 33), p. 102.

44 Gysseling gives *bann*, “judicial district”, and *hasia*, gen. pl. of *Hasiz, “Hessen” (TW, p. 488). But this last ethnic name is a forme of *Hatte*, pp. de *hatan*, “to be called, commanded”, with dim. -so; the first radical, better than the river Hase (as Poly, 1996), must be analogous to o.e. *haes*, “call, command”, which will give the name of Austrasia, *EasterHaes. For their superiority, *supra* n. 30 et 39. *Pagi minores*: Diest, Avernas (Looz), Haspinga, Hu(c)garda, FTPB (n. 33) I, p. 131, 141-144.

45 For Gysseling “eastern region” (TW, p. 775); *Ostrebannum* et *Austroba(n)tenses*, FTPB, I (n. 33), p. 134, 137. The small size of both Ostrebant and Caribant show they had been deprived of men.

46 Caribant, 9th c., later Carembaut (**CarHemBod*, “command of the return Home”), north-west of Hellesmes where Clodio was defeated by the cavalry of Aetius under Majorian; Gysseling identifies *bant* but does not explain *Car-* (TW, p. 220), possibly the return of the ancient fraction of the Marsi (**MaerHyse*, “Youth of Maer” the giant), the Mairingi/Maeringas gone to Bohemia and then part of the Quadi, **CuWaedd*, “Cow-pledged” (with a legendary Thudrih, Poly, 1996, *supra* n. 14), themselves part of the *Swaefas* (those barbarians, moving all the time, can't stay at attention!). This Belgian *Suevi*, mentionned with the Frisians by Venantius Fortunatus, will be evangelized by Eloi (S. Lebecq, *Marchands et navigateurs frisons du haut Moyen Âge*, Lille, 1975, 2, p. 18 et 48). Place-names for clearings outside the *pagus*: Zwevegem, *Suevengehem* 11th c.; Zwijvegem, *Suivengem* 12th c.; Zwijeveke, *Sueveka* 13th c.; Zwevezeele, *Swivesele* 11th c.; Kwaadham, *Quaetham* 13th c.; Kwaadleper, *QuatIpra* 13th c. (TW, p. 1108 et 583; Gysseling thinks to *kwaeda*, “schlecht”); add Kwaadrecht (*traiectus*) and Kwaatmechelen. FTPB (*supra* n. 33) I, p. 282. A fraction of the Nord-Schwaben, the Myrgingas, dwelt in Schleswig (*Widsith*, v. 35-44, ed. R. W. Chambers, 1965); another followed the Saxons but had their own law, the *Suavehe* (Poly, *Le chemin*, p. 79).

47 Kyrberge, 11th c., Kereberche, 12th c., TW, p. 556, not explained, in the Waverwald, FTPB (*supra* n. 33), I, p. 121. *Texuandri* mentionned by Pliny; today Kempen/la Campine (TW, p. 958 and 956).

48 *Supra* n. 40.

49 Testerbant, *Testarbart* 9th c., for Gysseling ohg. *Tehtstera*, “right, West” (TW, p. 957; FTPB, I, p. 121), unlikely *theoster*, “dark” (as Poly, 1993). Rather **TyEotSteorBand*, “the banner of the bull of Tiw’s Giant (cf. Teutones)”, a group of *Chamavi/Sicambri* since Testerbant and Hamaland were on *AmOre* (*supra* n. 34). In 470 Sidonius Apollinarius notes that the *Sicamber* lets his shorn hair (of a *laetus*) grow again, *infra* n. 113.

50 *Swifterbant*, 8th century, today a polder in former Ijsselmeer, a land sunk with the great carolingian flood (TW, p. 949. **SwæfDeor*, “the braves of the Swaben”, the part of the Quads left behind?

51 *Grafio*, akin to o.e. *gereafa*, *groefa* glossed *praepositus* by Aelfric (ASD); from *gereafian*, “take by force”. Was the *praepositus* one of the four centenar-ies chosen by the Headquarters to govern the county? Later, the *pagi minores* of Brabant had their own *graf*, but one of them was *landgraf*, answerable to the emperor.

52 *Supra* n. 8.

53 Ps.-Hygin, *De munitiombus castrorum* 2 (ed. M. Lenoir, Paris, 1979); PLS, 14.6 “at the mallberg *turpefalthio*”, o.e. *thorpe faell theaw*, “troop’s offending behavior”; also PLS, 42.1 and 3 et 43.3.

54 In the judicial settings for a *reipus* or an *anfathom*, the *thungini-centenarii* “*mallum indicant et scutum in ipso mallo habere debent*”, PLS, 44.1 et 46.1. Those who must have the shield (to the *staplum*, *supra* n. 39), are the *centenarii*, not the witnesses as É. Magnou-Nortier understands in “Remarques sur la genèse du *Pactus Legis Salicae* et sur le privilège d’immunité”, CHM (*supra* n. 3), p. 495. By the schild-raising, the *mallus publicus legitimus* of the *centenarius*, the hundred court, was distinguished from a mere ordinary meeting.

55 PLS, 59; J.-P. Poly 2000 (*supra* n. 14), already in a previous lecture in the US mentioned by P. Geary, *Before France and Germany. The Creation and Transformation of the Merovingian World* (1988), fr. transl. *Le Monde mérovingien: naissance de la France*, Paris, 1989, p. 114; T. Anderson, “Roman military colonies in Gaul, Salian ethnogenesis and the forgotten meaning of the *Pactus Legis Salicae* 59.5”, *Early Medieval Europe*, 4, 1995, p. 129.

56 The Loire supposed Clovis’ kingdom before the conquest of Aquitaine; but the lack of limit with Burgundy was worrying (Renard, p. 340-342). The *Lex Rib.* 33.1 has 14 days inside the *ducatus*, 40 in Austrasia, 80 outside this kingdom.

57 Before the 18th c., traveling was slow, F. Braudel, *L'identité de la France*, Paris, 1986, p. 98.

58 G. Kurth, *La frontière linguistique en Belgique et dans le nord de la France*, Bruxelles, I, 1895, p. 452; G. Des Maretz, *Le problème de la colonisation franque et du régime agraire dans la Basse-Belgique*, Bruxelles, 1926, p. 52.

59 A2 has *legere*, as C5, at §5. TW, p. 643 gives *Legia* (7th c., cop. 10th), *Leia* (9th c., cop. 10th), *Lis* (11th c.).

60 Victrice, bishop of Rouen (390-404), had evangelized the region according to Paulin of Nola (Ep. 18.4, ed. M. Kemptener 1999): “*Terra Morinorum situ orbis extrema... ubi quondam deserta silvarum ac litorum pariter intuta advenae barbari aut latrones incolae frequentabant, nunc venerabiles et angelici sanctorum chori... celebrant... In remotissimo nervici littoris tractu quem tenui ante hac spiritu fides veritatis adflaverat... in te primo refulsit clarius*”. The *advenae barbari* could be the Saxons, whose place-names are many in the region, which later had a king, Chararic, *rex Morinorum* (Gregory of Tours, *Hist. Franc.*, 2.41).

61 *Flanderenses, Flandriae in Vita Eligii* (7th c.); *vexata quaestio: Vlaanderen and Vlaamse* (TW, 1019, ref. to J. Dhondt, M. Gysseling, “Vlaanderen...”, in *Album Frank Baur*, Antwerp, 1, 1948, p. 192, *non legi*) are linked with “anglo-frisian” **flauma*, “terre inondée”, or better, for Pirenne, with o.e. *flema*, “run-away”, from *flaeman* (ASD); the name would have designated the dwellers of a military no-man’s land, the banished men of the vindictive system, *wargi* (*supra* n. 12); the second radical would be o.e. *deor*, o.sax. *dier*, “wild beast/brave man”. For Vanderkindere (FTPB, I, p. 36), “une zone de défense maritime analogue au *litus saxonicus*”.

62 A3: *si citra Mase (the Maas) aut Carbonaria*.

63 H. Van Der Linden, “La forêt Charbonnière”, *Revue belge de philologie et d’histoire*, 2, 1923, p. 203; R. Noël, “Deux grandes forêts du nord de la Gaule franque: la *Silva Arduenna* et la *Carbonaria*”, in CHM (*supra* n. 3), p. 631.

64 Cesar’s estimate has been questioned; but if the forest stretched unto the *nemeton* of the Atrebates it would indeed have been 300 km long as the crow flies.

65 Whence the jesting in the *Querolus* 2.7, when the *lare*, a dirty servant, appears as a white divinity: “I thought you worked to the charcoal, and you come from the bakery” (C. Jacquemard-Le Saos ed., Paris, 1994). In 382, the emperors exempted the estates of the *palatini* with the *munera sordida*,

limestone, timber, baking bread and bringing coal (*carbonis inlatio*) but for mint and weapons, “*nisi eum quem moneta sollemniter vel fabricatio secundum veterem morem poscit armorum*”, exemption extended in 390 to the estates of the Church (CTh. 11.16.18). A mint and two weapons fabrics at Trier and others at Rheims, Amiens and Soissons (ND, Oc 11.44 et 9.35-39), the charcoal coming along the rivers, Moselle, Oise, Somme or Aisne.

66 *Silva de Carboneriis*, “the forest of charcoal-places”, in 1125, 1133, 1138, becomes *nemus de Carbonirs*, “the wood of the charcoal-men” in 1186 and 1190 (TW, p. 11). Noël p. 657, speaks of a “prolongement de l'Ardenne” between Sambre and Meuse, but sees the abbey of Lobbes “dans une échancrure de la partie Sud de la forêt”. Bu there is the Massif des Fagnes stretching just south of Lobbes, likely part of the old Ardenne.

67 Renard, map p. 340.

68 The bishop Sulpicius in the episcopal list of Tongres, beside a Renatus, probably his *continueur* Renatus Profuturus Frigeridus quoted too by Gregory of Tours (L. Duchesne, *Fastes Episcopaux de l'ancienne Gaule*, Paris, III, 1915, p. 187; Poly, “Le tournant obscur. Foi, liberté et pouvoir dans la Gaule du IV^e s.”, in *Nonagesimo anno, Mélanges... Jean Gaudemet*, C. Bontems (ed.), Paris, 1999, p. 75). There is a *tribunus Friaredus* in the will of Remi of Rheims + c. 533 (M. Rouché, *Clovis*, p. 498). The Eifel, *Eifla*, *Eifela*, *Eiflensis pagus* in the 8th c. (TW, p. 306), is “l'Aiflois” non-identified by Gysseling in the Ardenne (TW, p. 41), a possible **Ei(g)e*Fell, “the Fearful Destruction”, likely the massacre of 388.

69 Cf. treaty of Meerssen of 870 (*Annales de S. Bertin*, F. Grat ed., Paris, 1964). *Carbonis conlatio*, *supra* n. 65.

70 The Hungarian expedition of 954/955 ended at Cambrai (S. L. Toth, “Les incursions des Magyars en Europe”, in *Les Hongrois et l'Europe*, S. Csernus and K. Korompay (ed.), Paris, Szeged, 1999, p. 201).

71 Cf. *supra* n. 62, the correction *Mosa* to PLS 47.

72 S. Lebecq (*supra* n. 44), I p. 102, 108, 214 et II, p. 54. The treaty of Meerssen gave Brabant and Hesbaye to Charles the Bald but in the 10th century both counties were answerable to the Empire.

73 Other barbarians were not concerned: those of *Amora* had their own law (*supra* n. 34) as had the Bretons (S. Kerneis, “L'ancienne loi des Bretons d'Armoriques”, *Revue historique de droit français et étranger*, 73, 1995, p. 175).

74 The author would be the *referendarius* Asclepiodotus who wrote the treaty of Andelot in 587 (for Eckardt) and the edicts of Childebert II in 593–595, placed at the end of the PLS; likely a *iurisperitus*, he used the technical word *pactus*; O. Guillot, “Clovis, le droit romain et le pluralisme juridique”, in *Libertés, pluralisme et droit...*, H. Van Goethem (ed.), Bruxelles, 1995, p. 69; S. Kerneis, “Le pacte et la loi. Droit militaire et conscience franque à la fin de l’empire romain”, in *Auctoritas*, *op. cit.*, p. 129.

75 “*Incipit pactus legis salicae. Placuit auxiliante Domino atque convenit inter Francos atque eorum proceribus ut pro servandum inter se pacis studium omnia incrementa rixarum resecurare deberent... ut iuxta qualitate causarum sumeret criminalis actio terminum. Extiterunt igitur inter eos electi de pluribus viri quattuor his nominibus, Wisogastus, Arogastus, Salegastus et Widogastus, in villas que ultra Rhenum sunt, in Bothem, Salehem et Widohem, qui per tres mallos convenientes omnes causarum origines sollicitate discutientes, de singulis iudicium decreverunt hoc modo*”. The text is found in five located and dated manuscripts, Eckhardt's C5 (BN lat. 4403b, Luxeuil, end of the 8th c.), C6 (BN lat. 18237, ND. de Paris? c. 850), K33 (BN lat. 10758, S. Remi de Rheims, c. 850), K35 (BN lat. 4628A, S. Denis de Paris, c. 850) and K32 (BN lat. 9654, S. Vincent de Metz, 10th c.). The mss. of class A and C are PLS in 65 titles, class K is the official carolingian version in 70 titres. The mss. of A family do not have the prologue; they come from non-frankish regions. The mss. C5 does not have the prologue but only the names of the *electi* with the remark *uuisouu ado*, and the two first place-names (*bodachaem* and *salachaem*); the ms. C6, from a frankish region, has the prologue without the three place-names. It is therefore possible that the place-names are a gloss to *in tres mallos convenientes* in the prologue, but they are already known in the *Liber Historiae Francorum* c. 4, in 726/727, possibly taken from another text, perhaps a slightly different version of the prologue: “*tunc habere et leges coeperunt quae eorum priores gentiles tractauerunt his nominibus uuisuastus, uisogastus (d read s), arogastus, salegastus in uillabus quae ultra rhenum sunt in bothagm, salechagm et uuidechagm*” (cf. ms. C5: “*hoc sunt qui lege salica tractauerunt*”). The three mss. K all come from frankish region, they have the longer prologue, but they took care to reproduce the shorter prologue as well. K17, late, from Chartres, has the distorted passage: *hec sunt nomina eorum qui fecerunt lege salica uuisuast, aroast, saleats, uicats qui uero manserunt in lege salice in budice*, the end perhaps a very bad reading of the place-names *salice(m)*, *ui(tegem)*, *budice(m)*?

76 Gibbon notes that the Law had been claimed by Franconia, more boldly by Saxonia and Hanover, more truly by Brabant (*supra* n. 1). G. Kurth, p. 575 bypasses the text: “Lorsque les traditions disent que les auteurs de la loi la firent outre-Rhin, elles se trompent sans doute au point de vue géographique, mais elles ne font qu’accentuer l’origine toute germanique de la loi”. About the *a priori* of German historiography, see the presentation by P. Schöttler, in L. Febvre, *Le Rhin, Histoire, mythes et réalités* (1935), rééd. Paris, 1997, p. 48; for the French side, see Febvre *supra* n. 29 or p. 111: “*Franci, Alamanni*, ces hommes voyagent et avec eux, ils ne traînent pas seulement une smala prolifique, des femmes, des enfants durement soumis au *mundium* des pères, bétail humain livré sans garantie à la force du maître...”. In the thirties then, “une smala”.

77 Gregory, *Hist. Franc.* 2.9, does not say *Dispargum* is in *Thoringia* but “on the limit”, i.-e. Doesburg (not Distelberg, as Poly, 1996) at the junction of Ijsel and Oude Ijsel, not far from Betuwe. Gregory relies upon oral tradition, “some say Merovee, father of Childeric, descended from Clodio”; as Fredegar tells that the queen, Clodio’ spouse, had been impregnated by a monster come from the sea, we may understand the discreet wording of Gregory. A. C. Murray, “Fredegar, Merovech and ‘Sacral Kingship’”, in *After Rome’s Fall: narrators and sources of early medieval history: essays presented to Walter Goffart*, Toronto (Ca.)-London-Buffalo, 1998, p. 121, criticizes the reconstruction by Hauck – where the Quinotaurus is Fro and an unknown Fro’s bull – but he ignores that Fredegar’s Quinotaurus is likely o.e. *Cwenathorn* alias *Maer* the giant (Poly, 1996), and he explains *Meroweh* as *Neptuni Bestia* (“Sea-cattle”; better “Present from Maer” to the queen...), thus linked to the Minotaure and Greco-roman mythology, a no less arbitrary construction than those of the 19th c. Germanistik.

78 Cf. o.e. *bana/bona*, “killer”, and *hana/hona*, “cock, hen”. The tale about this “hen” and her seven chicks – the she-hawk and her High-hawks clans –, alias the whore (Freyja) and her seven children who dwelt in the marshes, had been kept among a group of Hocings rallied to the Lombards (J.-P. Poly, *Le chemin*, p. 266; another Hoking clan stayed in Jylland). Not the island *Baunonia/Bannonia* of Pliny, *Hist. Nat.*, 4.94, where amber was found, “before Scythia”, between Mounts Riphaioi (Ural) and the cape of the *Cimbri* (North Jylland), indications from Pytheas, *supra* n. 30. It is no wonder that the ancient authors or the mediaeval clerks could not, or cared not, understand the old germanic names of the tradition, pulling them into greek or

latin words; that this *interpretatio romana* may have deceived modern historians is more surprising.

79 *Supra* n. 34.

80 The tale of Snorri about the *Tanakvisl* on the Black sea is different: the gods, not the people, came from it.

81 *Liber Historiae Francorum* 1-5 (MGH Script. Rer. Merov. V, p. 241-245) compile Gregory and Fredegar. As noted by Krusch, version A author (726/727) is a devout of saint Ouen honoured at Paris, and as such a Neustrian, but the seat had for bishop, shortly after 591, one Faramund (A. Duchesne, *Fastes*, II, p. 467), a royal name come from the Chamavian Rhine country (*infra* n. 112) whence possibly the "Hattic" tale; version B author (c. 736), who knows the Ardenne, might be Austrasian. The story of the tribute under Valentinian, and that of Marcomer and Sunno are likely borrowed from Sulpicius Alexander (cf. the scribal lectures *Primarius* for *Ricimarus*, and *Alani* for *Alamanni*).

82 Renard thinks that "le scribe, incapable d'identifier ces villages, a supposé qu'ils devaient se trouver outre-Rhin où l'on situait traditionnellement la patrie originelle des Francs" (cf. already Kurth, *supra* n. 76).

83 Both forms of the name are parallels to those of the name Bauto-Baudo; there was a *Boteham*, 12th c. non-identified, supposed to be not far from Cambrai (TW, p. 169); (Sint-Martens) Bodegem is an ancient *Bodingaham, a form in -ingham much used in Flanders (80% in West- and East-Flander, 20% in flemish Brabant). *Saleham* is the *Salechem* of the 12th c. (TW, p. 1100). *Widoham*, "the abode in the wood", might be the distorsion by the tale of an original **Witham* linked with a *Witta* (*infra* n. 96; TW, p. 1084, gives *Witham* 12th c., from *hwit*, white). There is indeed a *Zelhem* North of the Rhine, and a possible *Boteham* around Cambrai, but the three names of the Prologue have to be near the Lower Rhine, and must be found not far one from another.

84 W. Haubrichts, *supra* n. 10. See also J. H. Hesse, *Lex salica*, London, 1880, in the note by H. Kern, p. 561.

85 The dat. of *sâl* is correct, but it is not the case with *widu/wudu*. *Sel*, "happy, prosperous", would not give *sal-*; we have seen that *salu/salu*, "dull" (mod.e. *sallow*, mod.fr. *sale*, *salaud*) seems out of question; *sele*, fr. *salle*, "hall", philologically possible, is unlikely.

86 Cf. o.e. *wiss/wis*, "sure, certain". But as an historian warned by the philologists, we have to be careful: o cannot be here a declension, it has to be ex-

plained; we propose $\hat{o}=\hat{a}/\hat{ae}=\hat{aew}$, “(customary) law”, here most probably revenge; *aest* is a short form for *aerest*, “first of all”, which was Woden’s rank. *Ado* is imper. of *adon*, “take away, remove, destroy, expel”; the remark of the monk confirms $\hat{o}=\hat{aew}$.

87 Apart Salegast, the two other first radicals end in -o; but $\hat{o}=\hat{aew}$ as for Wisowast makes no sense; o.e. *ar-* “glory” not excluded but not very original (all people are glorious); *aer-*, “early, former”, is more characteristic for a Frankish group, that of the nervian country, cf. *supra* n. 38. *Oc* could be *ac*, *eac*, “added”.

88 The o.e. *wid-* is well-known in compounds, e.g. *widfolc*, “large people”, *widland*, “vast country”.

89 Cf. the ms. C5 of Eckhardt, *supra* n. 75.

90 Cf. their devotion to Marculf, “wolf in the forest”; Grez-Doiceau in Hesbaye was a great pilgrimage of the saint in the 17th century, J.-P. Poly, “La gloire des rois et la parole cachée, ou l’avenir d’une illusion”, in *Religion et culture autour de l’an mil*, M. Parisse (ed.), Paris, 1990, p. 167. The shields of the ND, in addition to the white wolf of the *Salii*, show the two wolfs of Woden on the blue shield of the *Vindices* (ND, Or. 6.13=57; also in Oc. 41.18), a red wolf on the white shield of the *Bructeri* (ND, Oc. 35=187, with their white kin *Ampsivarii*, 40=188), and a yellow one on the red shield of the *Ascarii seniores*, *supra* n. 28

91 “Tous les peuples des deux Amériques semblent n’avoir conçu leurs mythes que pour composer avec l’histoire et rétablir, sur le plan du système, un état d’équilibre au sein duquel viennent s’amortir les secousses bien réelles provoquées par les événements”, C. Lévy-Strauss, *Mythologiques IV*, Paris, 1971, p. 542.

92 This asymetry worried the Luxeuil copyist of the 8th century (ms. C5 of Eckhardt); after Arogast, he added in the list a Bodegast from his make, since it is found in no other manuscript.

93 J.-P. Poly, 1993 and 2006 (*supra* n. 14) from A. H. M. Jones and J. Martindale, *The Prosopography of the Late Roman Empire, his nominibus*, Cambridge, 1992.

94 W. Haubrichts, *supra* n. 84.

95 Identification by Zöllner and by Heinzelmann. He was a Frank, *barbarus exul* and *transrhenanus genere* (the son of the king of the *Quadi*, prisoner of Julian? Zosime, *Histoire Nouvelle*, 3.7.6-7), and in 380 lieutenant and kin of

the frankish *magister militum* Bauto/Baudo; perhaps comes *domesticorum*, he succeeded Bauto in 387 and became quasi-emperor in 392; M. Waas, *Prosopographie der Germanen im Römischen Dienst des 4 Jahrhunderts*, Bonn, 1965, and A. H. M. Jones and J. Martindale, *op. cit.*, *his nominibus*.

96 J.-P. Poly 2006. Hannibal commanded the carthaginian cavalry at 17, was general in chief at 25 and still fought in Bythina at 63 before he was compelled to suicide; Cesar was officer at 20 and when he was murdered, at 56, he was preparing two campaigns, one against the Parthians and the other in Germania; Aetius was *magister militum* at 32, and only a murder put an end to his military career at 58.

97 Waas, after Schönfeld, had already thought the second radical of the name to be *Vitta*.

98 First radical *hnaeppan*, in Yorkshire dialect “hit on the head with a staff” (ASD), a customary practice for the centurions (Tacitus, *Annales* 1.23). Second radical o.e.*wita* (gemination of the *t* in *witt*, “cleverness”), kept in the place-name *Wittem*, *supra* n. 83.

99 Cf. *supra* n. 31.

100 Here *ae*, unlike in the frankish tradition and the gloss in Luxeuil, comes through the vocal latin of the army.

101 In Gaul and later in French, initial german *w>g* (*waer>fr. guerre*, *wise>fr. guise*).

102 “(Franci) *quorum ea tempestate in palatio multitudo florebat*”, *Amm.*15.5.11.

103 Geza Roheim, *In the Gates of the Dream*, 1952, fr. transl. *Les portes du rêve*, Paris, 2000.

104 About reciting the law in the *Pactus* and in the *Lex Frisionum*, K. Modzelewski, *L'Europe*, *op. cit.*, p. 47.

105 S. Lebecq, *Nouvelle histoire de la France médiévale. Les origines franques, v^e-ix^e siècle*, Paris, 1990, p. 116-119, note the criticisms both from the nobles and from the common people.

106 “*De Francorum regibus quis fuerit primus a multis ignoratur*”, *Hist. Franc.* 2.9. About Gregory's ways, *infra* n. 119.

107 As Patrick Geary reminded us, studying memory is also observing what has been forgotten.

108 S. Kerneis, *cit. supra* n. 73; Renard, p. 332 and n. 40.

109 Ph. Grierson and M. Blackburn, *Medieval European Coinage, I: The Early Middle Ages (5th-10th centuries)*, Cambridge-London-New York, 1986, p. 103.

110 “*Tum forte decorus / cum Stilichone gener pacem implorantibus ultro / Germanis responsa dabat, legesque Caucis / arduus et flavis signabat iura Suebis./ His tribuit reges, his obside foedera sancit / indicto, bellorum alios transcribit in usus / militet ut nostris detonsa Sygambria signis... Quantum, te principe, possim / non longinqua docent, domito Saxone Tethys / mitior aut fracto secura Britannia Picto, / ante pedes humili Franco tristique Suebi / perfruor et nostrum video, Germanice, Rhenum*” (Carmen 18 in Eutropium, v. 377-395, MGH, Auct. Ant. X, 1892, p. 88). In the Roman “Asiatic style”, the writers were fond of ethnic names to give an exotic colour, and of synonyms to vary the wording and R. W. Mathisen (“Catalogues of Barbarians in Late Antiquity”, in *Romans, Barbarians and the Transformation of the Roman World*, Mathisen and D. Shanzer (ed.), 2011, p. 17) thinks that “one size fits all”. But ethnic names here are not used only “to do the verse”, and for a good poet, metrical necessities did not hinder terminological pertinence. In the 5th century, Roman administrators had a rather fair knowledge of the nearest barbarians and Stilicho and his officers would not appreciate a praise where the names of their vanquished enemies would have been fantastic. This is why the name of the *Chauci* was slightly shifted, *hea*, “high”, no more exact, being replaced by *cu/co*, “cow”, which marked their religious proximity with their neighbours *CuWade (*supra* n. 46).

111 “*Provincia missos / expellet citius fasces quam Francia reges quos dederis, acie nec iam pulsare rebelles / sed vinclis punire licet, / sub iudice nostro / regia romanus disquirat crimina carcer. / Marcomeres Sunnoque docet quorum alter etruscum / pertulit exilium, cum se promitteret alter / exulis ultorem iacuit mucrone suorum, / res avidi concire novas odioque furentes/ pacis et ingenio scelerumque cupidine fratres*” (De consulatu Stilichonis liber I, *Carmina publica* 21, v. 236-245, MGH, Auct. Antiqu. X, p. 197). About the law of 398, *supra* n. 37.

112 Both kings, “brothers” only by their politics, are known as *duces*, *regales* or *reguli* during 388-391 from the fragments of Sulpicius Alexander reproduced by Gregory of Tours; Marcomer, defending the country of the Chamavi, was leading *Chatti* (the Chamavi themselves and some kin-groups? *supra* n. 32 and 34; different from *Hattware*) and *Ampsivari* (a fraction of the *Bructeri*, the people of Sunno?).

113 *Supra* n. 49. For Sidonius Apollinarius in 458: “*sic ripae duplicis tumore fracto detonsus Vachalim bibat Sygamber*” (Carmen XIII v. 30-31); in 470/471:

“*paludicolae Sygambri*” (Ep. 4.1.5); in 478, at Euric’s court in Bordeaux: “*Hic tonso occipiti senex Sygamber postquam victus es, elicis retrorsum cervicem ad veterem novos capillos*” (Ep. 8.9.5, v. 28) (I *Carmina*, II-III *Epistolae*, ed. A. Loyen, 1960-1970).

114 Cf. *supra* n. 30 and 46.

115 P. J. Heather, “*Foedera and Foederati of the Fourth Century*”, in *From Roman Provinces to Medieval Kingdoms*, T. F. X. Noble (ed.), London, 2006, p. 294, notes that the *foedera* of the 4th century are more unequal (*iniqua*) than those of the following century.

116 *Leges Caucis et iura Suebis* is a chiasm for *leges et iura Caucis et Suebis*.

117 The author of the *Liber*, after telling the brief history of Faramund, adds that the Franks then received their law “from the pagan foremen (*priores*) Wisowast, Widogast, Aregast et Salegast in the estates of Bothagm, Salechagm and Widechagm, beyond the Rhine”, a *remploi* of the tradition inserted in the shorter prologue. For the clerk, the creation of the oral *Pactus* – mistaken for the written law – follows the election of Faramund, but he does not consider him as the law-maker.

118 Primarius for Ricimarius is remembered in the *Liber Historiae Francorum*, likely a wrong reading from Sulpicius Alexander.

119 The purposes and tactics of Gregory have been shown in his *Gregor von Tours ‘Zehn Bücher Geschichte’: Historiographie und Gesellschaftskonzept im 6. Jahrhundert*, Darmstadt, 1994.

120 S. Kerneis (“*Francus civis, miles romanus, les barbares de l’empire dans le Code Théodosien*”, in *Droit, religion et société dans le Code Théodosien*, J. J. Aubert and Ph. Blanchard (ed.), Genève, 2009, p. 377) links the so-called barbarian laws to a *novelle* of Theodose II, promulgating the Code in 438; discarding as *obsoletes* all previous laws, it declares still applicable “the *constitutiones* kept at the *principia* of the soldiers”, these *constitutiones* being likely the judgements (*decreta*) of the *magistri militum*, not deemed worthy of publication in his law-book.

121 Not a “Frankish invasion” of Roman Gaul, K. F. Werner, “La ‘conquête franque’ de la Gaule. Itinéraires historiographiques d’une erreur”, Guyotjeannin (ed.) (*supra* n. 4), p. 16.

122 A. C. Murray (“Reinhard Wenskus, on Ethnogenesis, Ethnicity and the Origins of the Franks” in *On Barbarian Identity. Critical Approach to Ethnicity in the Early Middle Ages*, A. Gillett (ed.), Turnhout, 2002, p. 39) criticizes

Wenskus' works – in his own words the “bourgeois” version of a “pagan fascism”... – and refuses any pertinence to the elements employed. The effort to discredit the old “germanistik” – truly not above criticism – leads to the denial of non-roman cultures, at best an admission of impotence – nothing can be known –, at worst a naïve *ethnocentrisme*, thus W. Goffart (“Does the Distant Past Impinge on the Invasion Age Germans?”, *ibid.*, p. 21) asking “did early Germans remember differently from us?” and answering “without pretence of scientific method” by telling the ignorance of a student. If these learned colleagues would read e.g. Malinowski, Leach, Roheim, Levi-Strauss, they would leave branding the nazism of Höfler or Eckhardt, sad as it is, and learn more about the cultures of oral customary societies. Walther Pohl (“Ethnicity, Theory and Tradition: a response”, Gillett, *ibid.*, p. 221), answering with humor the formers' assaults, justly criticizes Wenskus' *Traditionskerne: a Geistgeschichte* supposing immutability and the dichotomy Romanism/ Germanism; but he points at an opposite trend considering the texts as literary artefacts, a post-modernism which projects “the concern of modern academics in the distant past”. Other implications of the debate, K. Modzelewski (*op. cit. supra* n. 8), p. 1-16, curiously ignored by many critics.

123 K. Modzelewski, *Ibidem*, p. 56, notes the strong consistence between the laws and the origin-tales given in the prologues.

124 According to the “sur-romanist” analysis, the barbarians in the empire were not settlers but rentiers like other noblemen; just criticism of W. Liebenschütz, “Cities, Taxes and the Accomodation of the Barbarians”, T. F. X. Noble (ed.) (*supra* n. 102), p. 309. S. Lebecq, “The Two Faces of Childeic”, *Ibidem*, p. 327, shows the ambiguity of the time and the contrast between French and German historians.

125 In 467 the Burgundian king, *Galliae patricius*, ruled out the claim of a Roman landowner against *pauperes* defended by Lupicinus, accused of preaching against the king and the barbarians (*Vita Lupicinii* c. 92, *Vies des Pères du Jura*, ed. F. Martine, Paris, 1968). According to Augustine or Salvian, such cases were not uncommon.

126 E.g. the so-called *Lex romana Burgundionum*, actually a *summarium* of CTh.

127 Such a direct democracy was kept up, not without trouble, to the nineteenth century by the Szekely, the hungarian military communities in Transylvania, cf. N. Kalnoky, *Les constitutions et privilèges de la noble nation sicule. Acculturation et maintien d'un système coutumier dans la*

Transylvanie médiévale, Budapest-Paris-Szeged, 2004. The Swiss still think they have it, with their banks and “l’optimisation fiscale” of course.

128 Cf. The book of Karol Modzelewski, one of the founder of Solidarnosc (*op. cit. supra* n. 8).

ABSTRACTS

English

Salic Law, the most famous of the so-called barbarian leges, was both barbarian and roman. It was made during the 4th century for the Frankish military dependants (*dediticii*) and their families settled in the *Extrema Galliae*, the Far Gaul. Its main goal was to eradicate the feud system, unacceptable in the Roman army. It did not succeed in the long run but it gave the Franks the cohesion which allowed them to conquer Gaul, the text turning ultimately into an element of national identity down to the French revolution.

Français

La loi Salique, la plus célèbre des lois dites barbares, était à la fois barbare et romaine. Elle fut faite au IV^e siècle pour les *deditices* Francs et leurs familles établis dans les *Extrema Galliae*, « les régions ultimes de la Gaule ». Son principal objectif était d’éradiquer le système vindicatoire, inacceptable dans l’armée romaine. Elle n’y réussit finalement pas mais elle donna aux Francs la cohésion qui leur permit la conquête de la Gaule, le texte devenant un élément d’identité nationale jusqu’à la Révolution française.

INDEX

Mots-clés

armée, barbares, coutume, démocratie, histoire juridique de l’Europe, vengeance, Francs, identités nationales, loi Salique

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army, barbarians, custom, democracy, Europe’s legal history, feud, Franks, national identities, Salic Law

AUTHOR

Jean-Pierre Poly

Université Paris Ouest Nanterre