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XXX.12 That the lands of the barbarians' division paid no tributes

- The Spirit of Law - Book XXX. Theory of feudal laws among the Franks, in the relation they have to the establishment of the monarchy -

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Simple, poor, free, warriors, shepherds who lived without industry and were attached to their lands only by reed huts, [1] followed chiefs to pillage, and not to pay or raise tributes. The art of extortion is always invented afterwards, when men begin to enjoy the felicity of the other arts.

The short-lived tribute of a pitcher of wine per acre, [2] which was one of the harassments of Chilperic and Fredegonda, concerned only the Romans. Indeed it was not the Franks who tore up those tax rolls, but the ecclesiastics, who in those times were all Roman. This tribute principally afflicted the residents of the cities, [3] but the cities were almost all inhabited by Romans.

Gregory of Tours [4] says that a certain judge was obliged, after the death of Chilperic, to take refuge in a church for having under the reign of that prince subjected Franks who in the time of Childebert were freeborn to tributes : *Multos de Francis, qui tempore Childeberti regis ingenui fuerant, publico tributo subegit*. The Franks, who were not serfs, therefore paid no tributes.

There is no grammarian who does not pale at seeing how this passage has been interpreted by the abbé Dubos. [5] He notes that in those times freed men were also called *ingenui*. From there, he interprets the Latin word *ingenui* with these words : *freed from tributes*, an expression one can use in the French language, as one says *freed from cares*, *freed from woes* ; but in the Latin tongue, *ingenui a tributis*, *libertini a tributis*, *manumissi tributorum*, [6] would be monstrous expressions.

We see in the law of the Visigoths [7] that when a barbarian occupied a Roman's land, the judge obliged him to sell it, so that piece of land would continue to be tributary : therefore the barbarians did not pay tributes.

The abbé Dubos, [8] who needed to have the Visigoths pay tributes, [9] departs from the literal and spiritual sense of the law, and imagines, solely because he imagines, that there had been between the establishment of the Goths and this law an increase in tributes that concerned only the Romans. But only Father Hardouin is allowed to exercise arbitrary power over facts. [10]

The abbé Dubos abuses the capitularies as well as the historians and the laws of the barbarian peoples. When he wants the Franks to have paid tributes, he applies to free men what can only be understood for serfs [11] ; when he wants to speak of their militia, he applies to serfs what could only refer to free men. [12]

[1] Gregory of Tours, book II.

[2] *Ibid.*, book V.

[3] *Quæ conditio universis Urbibus per Galliam constitutis summopere est adhibita* (*Life of St. Aridius*).

[4] Book VII.

[5] *Histoire critique de l'établissement de la monarchie française*, vol. III, ch. xiv, p. 515.

[6] [Various ways of imagining that one might say "freed from tributes in Latin."]

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[7] *Judices atque Præpositi tertias Romanorum, ab illis qui occupatas tenent, auferant, et Romanis sua exactione sine aliqua dilatione restituant, ut nihil fisco debeat deperire* (Book X, tit. 1, ch. xiv).

[8] *Établissement des Francs dans les Gaules*, vol. III, ch. xiv, [p. 510](#).

[9] He bases himself on another *Lex Visigothorum*, book X, tit. 1, art. 11, which proves absolutely nothing : it says only that he who has received a piece of land from a lord on condition of a remuneration, must pay it.

[10] [In the 1758 edition, [Annex 23](#) is inserted here.]

[11] *Établissement de la monarchie française*, vol. III, ch. xiv, [p. 513](#), where he cites art. 28 of the *Edict of Pistres* ; see below, ch. xviii.

[12] *Ibid.*, vol. III, ch. iv, [p. 298](#).