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XXVIII.3 The capital difference between the Salic laws and the laws of the Visigoths and the Burgundians

- The Spirit of Law - Book XXVIII. On the origin and transformations of the civil laws among the French -
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XXVIII.3 The capital difference between the Salic laws and the laws of the Visigoths and the Burgundians

I have said [1] that the law of the Burgundians and the law of the Visigoths were impartial ; but the Salic law was not : it established the most grievous distinctions between Franks and Romans. When [2] someone had killed a Frank, a barbarian, or a man living under the Salic law, he paid his family an indemnity of 200 sols ; it was only 100 when the victim was a Roman landowner, [3] and only 45 when he was a Roman tributary ; the indemnity for the murder of a Frank who was a vassal of the king was 600 sols, [4] and for the murder of a Roman guest of the king [5] only 300. [6]] It therefore put a cruel difference between the Frankish lord and the Roman lord, and between the Frank and the Roman who were of modest station.

Furthermore, if you gathered some people to assault a Frank in his house, and killed him, the Salic law specified a compensation of 600 sols, but if you had assailed a Roman or a freed man, [7] you paid only half of the compensation. By the same law, if a Roman chained up a Frank, he owed thirty sols compensation ; but if a Frank chained up a Roman, he owed only fifteen. [8] A Frank stripped by a Roman received sixty-two and a half sols in compensation, and a Roman stripped by a Frank received only thirty. All that must have been mortifying for the Romans.

Yet one famous author [9] sets up a system of *The Establishment of the Franks in the Gauls* on the presupposition that they were the Romans' best friends. So the Franks were the Romans' best friends, those who inflicted on them, and who received from them, appalling damage [10] ; the Franks were friends of the Romans, they who, after subjecting them by arms, oppressed them in cold blood with their laws. They were friends of the Romans as the Tartars who conquered China were friends of the Chinese.

If a few Catholic bishops tried to use the Franks to destroy the Arian kings, does it follow that they desired to live under barbarian peoples ? And can we conclude that the Franks had particular consideration for the Romans ? I would draw very different conclusions : the surer the Franks were of the Romans, the less they gently they treated them.

The abbé Dubos has drawn from the wrong sources for history : the poets and orators ; it is not on works of vanity that systems should be based.

[1] In chapter I of this book.

[2] *Lex Salica*, tit. 44, §1.

[3] *Qui res in pago ubi remanet proprias habet. Lex Salica*, tit. 44, §15. See also § 7.

[4] *Qui in truste Dominica est, ibid.*, tit. 44, §4.

[5] *Si Romanus homo conviva regis fuerit, ibid.*, §6.

[6] The principal Romans were attached to the court, as is seen in the life of several bishops who were raised there ; scarcely anyone who was not a Roman knew how to write.

[7] Lidus, whose status was better than that of the serf (Law of the Germans, ch. xcvi).

[8] Tit. 35, §3-4.

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[9] Abbé Dubos [*Histoire critique de l'établissement de la monarchie française dans les Gaules*, 1734].

[10] Witness the expedition of Arbogaste in Gregory of Tours, *Historia ecclesiastica Francorum*, book II.