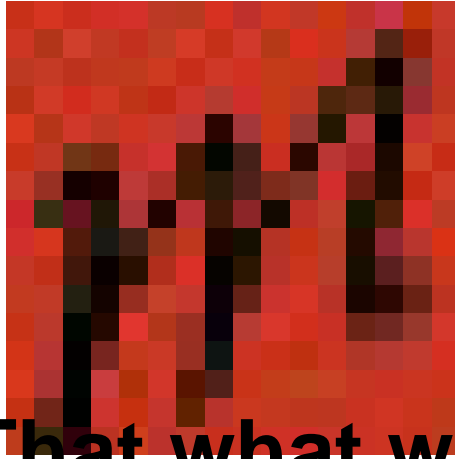


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# XXX.15 That what was called "census" was levied only on serfs, and not on free men

- 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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The king, the ecclesiastics, and the lords levied regular tributes, each on the serfs of their own domains. I can prove this with respect to the king with the capitulary *De Villis* ; with respect to ecclesiastics by the law codes [1] of the barbarians ; and with respect to the lords by the statutes that Charlemagne issued on that subject. [2]

These tributes were called *census* ; they were economic and not fiscal duties, private fees solely and not public impositions.

I say that what was called *census* was a tribute levied on serfs. I can prove this with a formula of Marculfus, which includes a permission from the king to become a priest, provided one is freeborn and not listed on the register of the *cens*. [3] I can further prove it by a commission which Charlemagne gave to a count whom he sent into the Saxon regions [4] ; it includes the emancipation of the Saxons for having embraced Christianity, and it is properly a charter of free birth. [5] This prince restores to them their original civil liberty, and exempts them from paying the *cens*. [6] It was therefore the same thing to be a serf and to pay the *cens* ; to be free and not to pay it.

By a sort of letters-patent from the same prince in favor of the Spaniards who had been received into the monarchy, [7] the counts are prohibited from requiring of them any *cens* at all, and from taking their lands. We know that foreigners who arrived in France were treated as serfs ; and Charlemagne, wanting them to be regarded as free men, since he wanted them to own their own land, prohibited requiring the *cens* of them.

A capitulary of Charles the Bald issued in favor of the same Spaniards, would have them treated as other Franks were treated, and forbids requiring the *cens* of them [8] : free men therefore did not pay it.

Article 30 of the Edict of Pistres reforms the abuse by which some colonists of the king or the Church were selling the lands attached to their manors to ecclesiastics or to men of their condition, and reserving for themselves nothing but a little house, in such a way that the *cens* could no longer be collected on it ; and he orders that things be restored to their original state : the *cens* was therefore a tribute of slaves.

It further results from this that there was no general *cens* in the monarchy, and this is clear from a large number of texts. For what would this capitulary mean [9] : "It is our will that the royal *cens* be required in all places where it was once legitimately required" ? [10] What would be the meaning of the one [11] where Charlemagne orders his envoys in the provinces to make an exact inquiry into all the *cens* that had once existed in the king's domain ? [12] And the one [13] where he disposes of the *cens* paid by those from whom they are being required ? [14] What meaning can we give to this other one [15] where we read : "If someone [16] has acquired a tributary estate on which we were accustomed to raising the *cens*" ? Or this one, [17] finally, where Charles the Bald speaks of *censual* lands, of which the *cens* had from all time belonged to the king ? [18]

Note that there are some texts which at first seem to refute what I have said, and which nonetheless confirm it. We have seen above that free men under the monarchy were obliged only to furnish certain conveyances ; the capitulary which I have just cited calls that *census*, and contrasts it to the *cens* which was paid by serfs. [19]

Moreover, the Edict of Pistres [20] speaks of those free men who had to pay the royal *cens* for themselves and for their houses, [21] and who had sold themselves during the famine. The king wants them to be redeemed. The reason is [22] that those who were freed by royal letters did not normally acquire a full and entire freedom, [23] but paid *censum in capite*, and that is the sort of persons who are spoken of here.

We must therefore discard the idea of a general and universal *cens* derived from the Romans' administration, from

## XXX.15 That what was called "census" was levied only on serfs, and not on free men

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which we suppose that the duties of lords have similarly derived by usurpations. What was called *cens* in the French monarchy, independently of the abuse that has been made of this word, was an individual duty levied on serfs by masters.

I beg the reader's forgiveness for the mortal tedium which so many quotations must give him ; I would be more brief if I did not still find before me the book on *The Establishment of the French Monarchy in the Gauls* by the abbé Dubos. Nothing sets back the progress of knowledge more than a bad book by a well-known author, because before you can instruct, you must first disabuse.

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[1] *Leges alamannorum*, ch. xxii, and *Lex Baiuvariorum*, tit. 1, ch. xiv, where we find the statutes which the ecclesiastics made on their state.

[2] Book V of the capitularies, ch. ccciii.

[3] *Si ille de capite suo bene ingenuus sit, and in Puletico publico censitus non est* (book I, formula 19).

[4] Of the year 789, Baluze ed. of capitularies, vol. I, p. 250.

[5] *Et ut ista Ingenuitatis pagina firma stabilisque consistat (ibid.)*.

[6] *Pristinæque libertati donatos, and omni nobis debito Censu solutos (ibid.)*.

[7] *Præceptum pro Hispanis*, of the year 812, Baluze ed., vol. I, p. 500.

[8] Year 844, Baluze ed., vol. II, art. 1-2, p. 27.

[9] Capitulary III of the year 805, art. 20 and 22 appended to the Compendium of Anzegise, book III, art. 15 ; it is consistent with that of Charles the Bald for the year 854 *apud Attiniacum*, art. 6.

[10] *Undecumque legitime exigebatur (ibid.)*.

[11] For the year 812, arts. 10-11, Baluze ed., vol. I, p. 498.

[12] *Undecumque antiquitus ad partem regis venire solebant* (capitulary of the year 812, art. 10-11).

[13] Of the year 813, art. 6, Baluze ed., vol. I, p. 508.

[14] *De illis unde censa exigunt* (capitulaire of the year 813, art. 6).

[15] Book IV of the capitularies, art. 37, and appended to *Leges Langobardorum*.

[16] *Si quis terram tributariam, unde census ad partem nostram exire solebat, susceperit* (book IV of the capitularies, art. 37).

[17] Of the year 805, art. 8.

[18] *Unde census ad partem regis exivit antiquitus* (capitulary of the year 805, art. 8).

[19] *Censibus vel paraveredis quos franci homines ad regiam potestatem exsolvere debent*.

## XXX.15 That what was called "census" was levied only on serfs, and not on free men

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[20] Of the year 864, art. 34, Baluze ed., p. 192.

[21] *De illis francis hominibus qui censum regium de suo capite and de suis recellis debeant (ibid.).*

[22] Art. 28 of the same edict explains all this well ; it makes a distinction between the Roman and Frankish freed men, and there again we see that the *cens* was not general : this must be read.

[23] As seen in a capitulary of Charlemagne of the year 813, already cited.