

<http://montesquieu.ens-lyon.fr/spip.php?article3156>



XXXI.1 Changes in the offices and the fiefs of mayors of the palace

- The Spirit of Law - Book XXXI. Theory of feudal laws among the Franks, in their relation to the transformations in their monarchy -

Date de mise en ligne : samedi 8 septembre 2018

Copyright © Montesquieu - Tous droits réservés

At first, counts were sent into their districts for just a year ; soon they purchased the continuation of their offices. We find an example of this as early as the reign of Clovis's grandchildren. A certain Poenius was a count in the city of Auxerre ; he sent his son Mummolus to take money to Gontram in order to be continued in his post : the son gave money for himself, and obtained his father's position. The kings had already begun to corrupt their own favors.

Although by the law of the realm fiefs were revocable, they were nevertheless not granted nor taken away in a capricious and arbitrary manner ; and that was ordinarily one of the principle things discussed in the assemblies of the nation. We can well think that corruption crept into this point, as it crept into the other one ; and that they continued the possession of fiefs for money as they continued the possession of counties.

I shall show later in this book [1] that independently of the presents that the princes made for a time, there were others they made permanently. There were times when the court wanted to revoke presents which had been made : that provoked general discontent in the nation, and was soon followed by that revolution famous in the history of France, of which the earliest period was the amazing spectacle of the execution of Brunehilde.

It seems first of all extraordinary that this queen, daughter, sister, and mother of so many kings, still famous today for writings worthy of a Roman ædile or a proconsul, born with an admirable genius for administration, endowed with qualities that had so long been respected, should have found herself suddenly exposed to such long, ignominious, and cruel tortures [2] by a king [3] whose authority was rather uncertainly settled in his nation, if she had not fallen by some particular cause into disgrace with that nation. Clotaire blamed her for the death of ten kings, [4] but there were two he had put to death himself ; the death of some others was the crime of fate or the malevolence of another queen ; and a nation which had allowed Fredegund to die in her bed, which had even opposed the punishment of her horrible crimes, [5] must have been quite insensitive to those of Brunehilde.

She was put on a camel and paraded through the whole army, a certain sign that she had fallen into disgrace with the army. Fredegar says that Protarius, Brunehilde's favorite, was taking the property of lords and stuffing the treasury with it, that he humiliated the nobility, and that no one could be sure of keeping the position he had. [6] The army conspired against him ; he was stabbed in his tent ; and Brunehilde, either for the vengeance she got through that death, [7] or for her pursuit of the same plan, became every day more odious to the nation. [8]

Clotaire, ambitious to reign alone, and full of the most frightful vengeance, sure to perish if Brunehilde's children got the better of him, entered into a conspiracy against himself ; and either because he was unskillful or because he was forced by the circumstances, he became Brunehilde's accuser, and had an horrible example made of the queen.

Warnacharius had been the soul of the conspiracy against Brunehilde. He was made mayor of Burgundy ; he required of Clotaire that he would never be removed during his lifetime. [9] In that way the mayor could never be in the same situation as the French lords, and that authority began to make itself independent of the royal authority.

It was Brunehilde's appalling regency that had especially frightened the nation. As long as the laws subsisted in full force, no one could complain of losing a fief, since the law did not give it to him forever ; but when avarice, bad practices, and corruption brought donations of fiefs, they complained of being deprived in improper ways of things which often they had acquired similarly. If the public welfare had been the motive for the revocation of presents, perhaps nothing would have been said ; but they pointed to order without hiding the corruption ; they claimed the right of the treasury to lavish the goods of the treasury at their will ; presents were no longer the reward or the expectation for services. Brunehilde, through a corrupt mind, tried to correct the abuses of the former corruption. Her caprices were not those of a feeble mind ; the leudes and high officers thought they were doomed : they doomed her.

XXXI.1 Changes in the offices and the fiefs of mayors of the palace

We are nowhere near possessing all the acts that were enacted in those times, and the makers of chronicles, who knew of the history of their times about what villagers know today about the history of ours, are very barren. However, we have a constitution of Clotaire issued in the council of Paris [10] for the reform of abuses, [11] which shows that the prince brought an end to the complaints that had fomented the revolution. On the one hand, in it he confirms all the presents that had been made or confirmed by the kings before him, [12] and he orders, on the other, that everything that has been taken from his leudes or fidèles be restored to them. [13]

That was not the only concession which the king made in that council : he ordered that what had been done against the privileges of ecclesiastics be corrected [14] ; he moderated the influence of the court in elections to bishoprics. [15] The king similarly reformed fiscal affairs : he ordered that all new *cens* be done away with, [16] that no right of transit established since the death of Gontram, Sigebert, and Chilperic be levied : in other words, he suppressed everything that had been done during the regencies of Fredegund and Brunehilde ; he prohibited his herds from being lead into private forests ; and we shall soon see that the reform was even more general, and extended to civil matters.

[1] Ch. vii.

[2] *Chronicle of Fredegar*, ch. xlii.

[3] Clotaire II, son of Chilperic, and father of Dagobert.

[4] *Chronicle of Fredegar*, ch. xlii.

[5] See Gregory of Tours, [book VIII, ch. xxxi](#).

[6] *Sæva illi fuit contra personas iniquitas, Fisco nimium tribuens, de rebus personarum ingeniose fiscum vellens implere.....ut nullus reperiretur qui gradum quem arripuerat potuisset adsumere* (*Chronicle of Fredegar*, ch. xxvii for the year 605).

[7] *Ibid.*, ch. xxviii on the year 607.

[8] *Ibid.*, ch. xli, on the year 613. *Burgundiæ farones, tam episcopi quam cæteri leudes, timentes Brunichildem et odium in eam habentes, consilium inientes*, etc.

[9] *Ibid.*, ch. xlii on the year 613. *Sacramento a Clotario accepto ne unquam vitæ suæ temporibus degradaretur*.

[10] Some time after the execution of Brunhilda, year 615. See Baluze ed. of capitulaires, p. 21.

[11] *Quæ contra rationis ordinem acta vel ordinata sunt, ne in antea, quod avertat divinitas, contingant, disposuerimus, Christo præse, per hujus edicti tenorem generaliter emendare* (*ibid.*, art. 16).

[12] *Ibid.*, art. 16.

[13] *Ibid.*, art. 17.

[14] *Et quod per tempora ex hoc prætermisum est vel de hinc perpetualiter observetur*.

[15] *Ita ut episcopo decedente in loco ipsius qui a metropolitano ordinari debet cum principalibus, a clero et populo eligatur ; et si persona condigna fuerit, per ordinationem principis ordinetur ; vel certe si de palatio eligitur, per meritum personæ et doctrinæ ordinetur* (*ibid.*, art. 1).

XXXI.1 Changes in the offices and the fiefs of mayors of the palace

[16] *Ut ubicumque census novus impie additus est, emendetur* (art. 8).