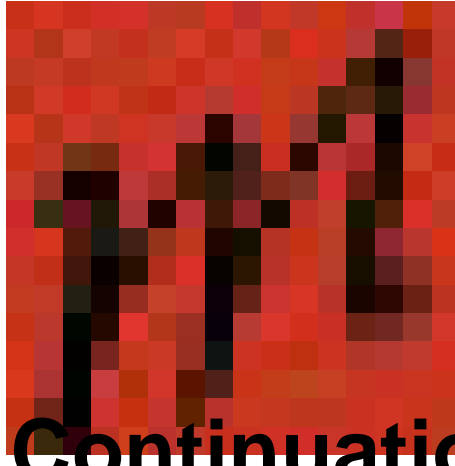


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# XXXI.22 Continuation of the same subject

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

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The clergy had cause to regret the protection it had granted to the children of Louis the Debonaire. That prince, as I have said, had never given [1] preceptions of Church properties to laymen ; but soon Lothaire in Italy and Pépin in Aquitaine abandoned Charlemagne's plan and reverted to Charles Martel's. The ecclesiastics had recourse to the emperor against his children ; but they themselves had weakened the authority to which they were appealing. In Aquitaine they showed some condescension ; in Italy they did not obey.

The civil wars which had troubled the life of Louis the Debonaire were the seeds of those that followed his death. The three brothers, Lothaire, Louis, and Charles, each sought to attract the important men to their party, and to make some creatures of their own. They gave to those who were willing to follow them preceptions of Church properties ; and to win over the nobility, they delivered the clergy to them.

We see in the capitularies that these princes were obliged to yield to the importunity of the demands, [2] which often wrested from them what they would not willingly have granted ; we also see that the clergy believed itself more oppressed by the nobility than by the kings. It further appears that it was Charles the Bald [3] who most attacked the patrimony of the clergy, whether because he was the most irritated against them, since they had humiliated his father on his account, or because he was the most timid. Be that as it may, in the capitularies we see ongoing quarrels between the clergy which was claiming its property, and the nobility which was refusing, eluding, or putting off restoring them, and the kings between the two. [4]

To see the state of things in those times is a spectacle worthy of pity. While Louis the Debonaire was making immense donations from his domains to the churches, his children were distributing the clergy's properties to laymen. Often the same hand that was founding new abbeys was despoiling the old ones. The clergy had no fixed status : it had things taken away, it recovered them ; but the crown was always losing.

Toward the end of Charles the Bald's reign and since that reign, disputes between the clergy and laymen over restitution of the Church's properties became a thing of the past. The bishops indeed uttered a few sighs in their remonstrances to Charles the Bald which we find in the capitulary of the year 856 and in the letter which they wrote to Louis the German in 858 [5] ; but they were proposing such things, and claiming promises so often eluded, that it is clear they had no expectation of obtaining them.

There was scarcely any further question of redressing in general the damages done in the Church and in the state. [6] ] The kings committed themselves not to take their free men from the leudes, and no longer to give away Church properties with preceptions, [7] so the clergy and the nobility seemed to share the same interests.

The strange ravages of the Normans, as I have said, contributed greatly to putting an end to these quarrels.

The kings, less credible by the day, and for the reasons I have stated and the ones I shall state, believed they had no choice available but to put themselves into the hands of the ecclesiastics. But the clergy had weakened the kings, and the kings had weakened the clergy.

In vain did Charles the Bald and his successors call on the clergy to support the state and prevent its fall ; in vain did they invoke the respect which the people had for that body to maintain that which they should have for them [8] ; in vain did they seek [9] to lend authority to their laws by that of the canons ; in vain did they add ecclesiastical penalties to civil penalties [10] ; in vain did they, to counterbalance the count's authority, give to each bishop the title of their envoy in the provinces [11] : it was impossible for the clergy to repair the damage it had done ; and a strange misfortune, to which I shall soon come, sent the crown tumbling to the ground.

[1] See what the bishops say in the synod of the year 845 *apud Teudonis Villam*, art. 4.

[2] See synod of the 845 *apud Teudonis Villam*, art. 3-4, which describes very well the state of things, as well as the one of the same year held at the Palais de Vernes, art. 12, and the synod of Beauvais again of the same year, art. 3, 4, and 6, and the capitulary in Villa Sparnaco, year 846, art. 20, and the letter of the bishops assembled bishops at Reims in 858 to Louis the German, art. 8.

[3] See the capitulary in Villa Sparnaco, year 846. The nobility had provoked the king against the bishops, so he expelled them from the assembly ; they chose some canons of synods, and declared to them that they would be the only ones that would be observed ; they granted them only what it was impossible to refuse them. See art. 20-22. See also the letter of the bishops assembled bishops at Reims in 858 to Louis the German, art. 8, and the edict of Pistres, year 864, art. 5.

[4] See the same capitulary of the year 846 in Villa Sparnaco. See also capitulary of the assembly held *apud Marsnam* in the year 847, art. 4, in which the clergy fell back to asking to be put back into possession of everything it had enjoyed under the reign of Louis the Debonaire. See also capitulary of the year 851 *apud Marsnam*, art. 6-7, which maintains the nobility and the clergy in their possessions ; and the one *apud Bonoilum* in the year 856, which is a remonstrance of the bishops to the king on the failure to repair the damage done after so many new laws ; and finally the letter of the bishops assembled bishops at Reims in 858 to Louis the German, art. 8.

[5] Art. 8.

[6] See capitulary of the year 851, art. 6-7.

[7] Charles the Bald, in the synod of Soissons, says that "he had promised the bishops to give no more preceptions of Church properties" (capitularies of year 853, art. 11, Baluze ed., vol. II, p. 56).

[8] See the capitulary of Charles the Bald, *apud Saponarias* of the year 859, art. 3. "Venilon, whom I had made archbishop of Sens, consecrated me ; and I was to be driven out of the realm by no one : *saltem sine audientia et iudicio Episcoporum, quorum ministerio in Regem sum consecratus, et qui Throni Dei sunt dicti, in quibus Deus sedet, et per quos sua decernit iudicia ; quorum paternis correctionibus et castigatoriis iudiciis me subdere fui paratus, et in præsenti sum subditus.*"

[9] See the capitulary of Charles the Bald, de Carisiaco, of the year 857, Baluze ed., vol. II, p. 88, art. 1-4 and 7.

[10] See the synod of Pistres in the year 862, art. 4, and the capitulary of Carloman and of Louis II *apud Vernis Palatium*, year 883, art. 4-5.

[11] Capitulary of the year 876 under Charles the Bald, in *Synodo Pontigonensi*, Baluze ed., art. 12.