

## I

OF THE PRIVILEGE OF BESTOWING GIFTS PERMITTED TO FATHERS,  
AND CONCERNING ROYAL GIFTS AND GRATUITIES.

1. Because nothing concerning the privilege of bestowing gifts which is permitted to fathers, or concerning the gifts (and gratuities) of rulers, has been provided in the laws, we have decreed in the present statute, with the common consent and will of all, that it be permitted to a father to give to anyone from the common property or from the produce of his labor before he makes a division, except that land acquired by allotment (title of *lot, sors*).<sup>1</sup> concerning which the arrangement of previous laws will still stand.<sup>2</sup>
2. If a father has divided (his property) with his sons and offered them their portions, and afterward had one or more sons by another wife, those sons who are by the second wife shall succeed to that portion which the father has acquired (subsequent to the first division)<sup>3</sup>; and when the father makes a division of his property, these children (of the second wife) can require nothing more from the other children.
3. Also it is pleasing that this rule be added to the law, that if any one of our people is known to have received anything in the way of gift from our predecessors, we decree in the present statute that he pass on to his sons that which was given to him out of our largesse.<sup>4</sup>
4. Moreover we decree that if anyone has received anything either from our gift, or shall receive otherwise, God granting, let the text of our gift show it. Further, let it be said that such gifts shall pass to their posterity provided they serve with such devotion and faith

<sup>1</sup> The land designated *terra sortis* was that land which a barbarian "guest" was assigned from the property of his Roman "host," according to the system of hospitality followed in dividing the land between the Burgundians and Romans. Among the Burgundians and Romans the practice seems to have been that the Burgundian received two-thirds of the land and one-third of the slaves of his Roman host. Cf. LIV, 1.

<sup>2</sup> See XIV, XLII, LI, LIII, LXII, LXXV, and LXXXVIII.

<sup>3</sup> I.e., apparently that property acquired subsequent to the division among the sons of the first wife.

<sup>4</sup> Those who had received land from the king's grant were not allowed to share the property of a Roman host. Cf. LIV, 1.

that these gifts of our predecessors may be increased and preserved.<sup>6</sup>

## II

OF MURDERS.<sup>1</sup>

1. If anyone presumes with boldness or rashness bent on injury to kill a native freeman of our people of any nation<sup>2</sup> or a servant of the king, in any case a man of barbarian tribe, let him make restitution for the committed crime not otherwise than by the shedding of his own blood.
2. We decree that this rule be added to the law by a reasonable provision, that if violence shall have been done by anyone to any person, so that he is injured by blows of lashes or by wounds, and if he pursues his persecutor and overcome by grief and indignation kills him, proof of the deed shall be afforded by the act itself or by suitable witnesses who can be believed. Then the guilty party shall be compelled to pay to the relatives of the person killed half his wergeld according to the status of the person: that is, if he shall have killed a noble of the highest class (*optimas nobilis*), we decree that the payment be set at one hundred fifty solidi, i.e., half his wergeld; if a person of middle class (*mediocrits*), one hundred solidi; if a person of the lowest class (*minor persona*), seventy-five solidi.
3. If a slave unknown to his master presumes to kill a native freeman, let the slave be handed over to death, and let the master not be made liable for damages.
4. If the master knows of the deed, let both be handed over to death.
5. If the slave himself flees (*defuerit*) after the deed, let his master be compelled to pay thirty solidi to the relatives of the man killed for the value (wergeld) of the slave.
6. Similarly in the case of royal slaves, in accordance with the

<sup>6</sup> Davoud-Oghlou regards this law as an indication of incipient feudalism, for it seems to say that those who held land of the king owed some service in return. Cf. Davoud-Oghlou, *op. cit.*, I, 428 (O, 13), 446 (S, 5).

<sup>1</sup> These killings (*homicidia*) are apparently murders, not unpremeditated homicides.

<sup>2</sup> Nation, i.e., barbarian nation or tribe.

status of such persons, let the same condition about murderers be observed.

7. In such cases let all know this must be observed carefully, that the relatives of the man killed must recognize that no one can be pursued except the killer; because just as we have ordered the criminals to be destroyed, so we will suffer the innocent to sustain no injury.

### III

#### OF THE EMANCIPATION OF OUR SLAVES.

If it shall be established that any were the freedmen or freedwomen of our ancestors of royal memory, that is, Gibica, Godomar, Gislaharius, Gundaharius, also of our father and our uncle, let them remain in that same state of freedom; whoever among them has been in a servitude of lower status under our ancestors, let them remain under our dominion (*dominium*).

### IV

#### OF SOLICITATIONS AND THEFTS.

1. If anyone solicits another's bondservant, or anyone, either native Burgundian or Roman, presumes to take in theft a horse, mare, ox, or cow, let him be killed: and let him who lost the bondservants and animals mentioned above, if he is not able to find them in the possession of the solicitor or thief, receive compensation in fee simple: that is, if he is not able to find that bondservant, for the bondservant, twenty-five solidi; for the best horse, ten solidi; for an ordinary one, five solidi; for the mare, three solidi; for the ox, two solidi; for the cow, one solidus.

2. If indeed a slave commits the theft, let him be handed over to death: and let the master of the slave requite by a single payment (i.e., in fee simple) and without claim to further damages him who lost those things which were taken away by theft, including the above-mentioned animals which cannot be found, in accordance with the tariff of established prices.

3. And if any native freeman, either Burgundian or Roman, takes in theft a pig, a sheep, a beehive, or a she-goat, let him pay three-

fold according as their value is established, and in addition, let him pay a fine of twelve solidi. Let the composition be for the pig, one solidus; for the sheep, one solidus; for the beehive, one solidus; for the goat, a tremissis. Indeed, let their value be paid threefold.

4. If a slave of a Burgundian or of a Roman admits the theft of the afore-mentioned animals (livestock), let the slave be handed over for punishment that he may receive three hundred blows of a stick. Moreover, let the master pay in simple for the crime; and a fine is not required from the master.

5. If a native freeman steals the little bell (*titinnum*)<sup>1</sup> attached to a horse, let him return another horse like it (i.e., a horse like the one to which the bell was attached); and let a like provision be observed concerning a lead ox. If a slave take it, let him be beaten.

6. Moreover, if a native freeman steals the hobble (*pedica*)<sup>2</sup> of a hobbled horse, let him know that a horse of like value must be returned. If a slave commits such an act, let him receive a hundred blows of a stick for each offense.

7. If a native freeman presumes to ride a horse without the owner's permission, let him know that two solidi must be given to him to whom the horse belongs if the horse has been taken for a journey of one day only; but if indeed for more than that, let him be held according to that law which we have ordered to be observed concerning horses used for journeys.<sup>3</sup> If a slave does this, let him be beaten.

<sup>1</sup> Cf. DuCange, *op. cit.*, VI, 592.

<sup>2</sup> Cf. *ibid.*, V, 173. It is suggested by Davoud-Oghlou that the heavy payment imposed for the theft of a little bell or a hobble—the value of the animal to which it was attached—results from the fact that the animal could easily become lost without the *titinnum* or *pedica*. Cf. Davoud-Oghlou, *op. cit.*, I, 415 (L, 11).

<sup>3</sup> The word used here is *inventicius* which is very obscure. The root seems to be the same as that of *adventicius*, from which is derived the Castilian word *adventico*, meaning something strange or unusual; the Portuguese word *adventico* (*adventiciamente*), meaning adventitious, foreign, strange, extraordinary; and the Italian word *adventiccio*, which seems to mean a stranger, one who has come from abroad. Cf. DuCange, *op. cit.*, I, 97. Substituting the prefix *in* for *ad*, we get a word meaning something or someone coming from within and, when applied to a horse, might refer to a horse used for journeys within the realm or district under consideration. An alternative possibility

8. Let him who presumes to do work with the ox of another without the owner's knowledge or permission be compelled to hand over two oxen to the owner.

## V

OF THOSE WHO STRIKE OTHERS WITH LASH OR ROD, WITH A KICK, OR WITH A BLOW OF THE FIST.

1. If anyone strikes a native freeman with such presumption, let him pay a single solidus for each blow, and let him render a fine of six solidi to the king's treasury.

2. Whoever strikes another's freedman, let him pay a single semissis for each blow; moreover, let the fine be set at four solidi.

3. Whoever strikes another's slave, let him pay a single tremissis for each blow; moreover, let the fine be set at three solidi.

4. If anyone seizes a native freeman violently by the hair, if with one hand, let him pay two solidi; if with both hands, four solidi; moreover, let the fine be set at six solidi.

5. If anyone seizes a freedman or another's slave violently by the hair, either with one hand or with both, it is pleasing that determination of punishment be made as in the case of blows, whether against a freeman, a freedman, or a slave, and so also assessment of both composition and fine is required in cases of this kind.

6. If a slave strikes a native freeman with a blow of his fist, let him receive a hundred blows.

7. If indeed a master of a slave engages in a fight (is hard pressed in a struggle) with another and the slave, while wishing to help his master, strikes his master's opponent, let the master pay one solidus for the blow struck by the slave.

<sup>1</sup> deriving the word from *vento* rather than *vento* might give the meaning of "riding horse," "livery horse," or a horse "for hire" as related to *venditio* (sale, for sale) or *penitio* (customs, tax, payment) for which see *ibid.*, VI, 768. Davoud-Oghlou, *op. cit.*, I, 415 (L, 12) suggests only that the man who keeps a horse more than one day shall be considered a thief.

## VI

## OF FUGITIVES.

1. If anyone seizes a fugitive within the provinces belonging to us, let him receive a solidus for the fugitive; and if the fugitive takes a horse with him, let him (the man who seizes the fugitive) receive a semissis for a pack horse, a tremissis for a mare, and let him return the fugitive with all these things. And if it is without the realm, let him who seizes a fugitive receive two solidi for the fugitive, and for the horse one solidus, for the mare a semissis.

2. Let him who has followed a fugitive, and by chance kills him while resisting, be free from all blame (prosecution); or if he who follows is struck by the fugitive, let no blame attach to the master of the fugitive.

3. If a fugitive is captured by anyone, either Burgundian or Roman, and he escapes his custody by chance, let him from whom he fled swear that he had escaped without his collusion or knowledge, and after an oath has been given as stated above, let him suffer no blame.

4. Whoever unintentionally provides a native freeman or slave who is a fugitive with false hair (*capillum fecerit*),<sup>1</sup> let him forfeit five solidi; if he provides him with such hair intentionally, let him be compelled to pay the wergeld of the fleeing man.

5. Whoever intentionally aids a fugitive to cross a river, let him suffer the punishment of an accomplice (*solicitor*).

6. If a fugitive shall escape, let him (from whose custody he fled) take oath that the escape was made neither by his own collusion, as stated above, nor by the collusion of his slaves, and that he escaped his bonds neither with his nor with their knowledge.

<sup>1</sup> There is some difficulty with the phrase *capillum fecerit*, but it probably means "to provide with false hair," i.e., with a wig. Since loss of the hair was particularly degrading to a barbarian, it might well be that a slave might have his head shaved and that he would need a wig to conceal the fact that he was a fugitive slave. But the law mentions *freeman* or slave. Here we can only guess that the freeman had been apprehended for some crime and had his head shaved, and then escaped; or simply that he wanted a wig to conceal or disguise his identity. For other possibilities, cf. Davoud-Oghlou, *op. cit.*, I, 417, n. 1.