
Hunting in northern Europe until 1500 AD

Old traditions and regional developments, continental sources
and continental influences



The 7th century's royal follower's grave at mid-east Swedish Rikeby (Uppland) – the deceased one with his horse, several dogs, several raptor birds, several birds which represent the typical prey of falconry plus food gifts (drawing Ulla Malmsten).

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Hunting in northern Europe until 1500 AD

Old traditions and regional developments, continental sources
and continental influences

Edited by
Oliver Grimm und Ulrich Schmölcke

Papers presented at a workshop organized by the
Centre for Baltic and Scandinavian Archaeology (ZBSA)

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Legal regulations on hunting in the barbarian law codes of the Early Middle Ages

By Martina Giese, Tübingen

Keywords: Hunting law, Leges barbarorum, barbarian law codes, trapping, hunting dogs, falconry, tamed stags

Abstract: The Leges (barbarorum) are the most important set of sources for investigating hunting in continental Europe from the 5th to the 8th century. They comprise the customary law of the gentes, but were only written down some time later at the behest of kings and expanded by new statutes partly dictated by kingship. The leges are rooted in archaic conceptions of law and oriented towards specific individual cases. In contrast to Roman law, the leges are based on a system of compositions, which in the event of damage or loss involved the payment of money to the injured party. They include a whole host of hunting-related regulations, especially concerning property offences and in connection with hunting practice. They also pay much attention to hunting techniques and to trained animals used in the hunt, such as tame stags, birds of prey and hunting dogs. The present contribution provides a selective overview of these different regulations.

The Leges (*barbarorum*) or tribal laws are the legal texts of the Germanic peoples living in continental Europe between the 5th and 8th centuries (for a general overview, cf. SCHOTT 1991, col. 1802–1803; SCHMIDT-WIEGAND 2001, col. 194–200, on the culture-historical importance esp. col. 198–199). This kind of source material began to be written in the 5th century by the Visigoths and continued to the time of Charlemagne († 814), under whom the different legal traditions were brought together in collected manuscripts. While the unified criminal law of the Roman Empire had accorded a central role to physical punishments (corporeal and capital punishments), the system of sanctions of the various leges was based on the so-called composition system or fine system (cf. SCHUMANN 2012). Here, the punishment was carried out through the payment of compensation money to the victim of the crime him- or herself, or to the person's relevant social group (generally the family). The composition (*compositio*), in effect the fine, was staggered according to the severity of the crime and the personal standing of the victim¹. In the context of a society very much predisposed to violence, the judicial process itself and the payments were designed to curtail – if not to completely prevent – violence regarded as part of one's right to revenge. The aim was to repress personal retaliation of an unlawful act by the victim himself, an archaic form of conflict which always threatened to escalate into a tit-for-tat spiral

¹ The relevant monetary units were the *denarius* (or penny, a silver coin), the *solidus* (or shilling, a gold coin worth 3 *tremissi* or 12 *saigae*), the *saiga* (in the vernacular known as *sagga*, a gold coin; 12 *saigae* = 1 *solidus*) and the *tremissis/tremissus* (a gold coin, 3 *tremissi* = 1 *solidus*).

of violence. Although, the contribution of the various social groups towards the genesis of these texts is still controversial, the *leges* nevertheless appear to be a consensual form of law, that is to say the result of processes of negotiation between the king and his grandees on the one hand and the general populace on the other. In addition to the conditions surrounding transmission, the problem of dating and text critical questions, current research particularly focuses on how we should see the relationship between written norms and the actual enactment of the laws².

The earliest preserved manuscripts of the *leges* only date to the second half of the 8th century. Without exception, they were written in the scholarly language of Latin, but they are dotted with vernacular additions³. This indicates a tension between oral tradition and writing and clearly reflects the significant fact that the remaining texts are the product of an oral judicial practice. The *leges* exhibit a casuistic character in their monotonous structure and the individual clauses. Time and again, they reflect the material culture and daily life of the Early Middle Ages. The *leges* hence provide diverse and very valuable culture-historical information on these aspects. This also applies to hunting, especially to the so-called popular hunt carried out by wider sections of the population, and of which we would otherwise know very little. While the *leges* do not contain regulations pertaining to hunting law in the narrow sense of the word, i.e. regulations regarding the use of hunting territories, the question of who is entitled to hunt in the first place and which animals may be killed at what time (for a recent general overview, see KOHL 2011, col. 1341–1345), they instead repeatedly address events of damage or loss connected with hunting⁴. That shifts the focus to hunting techniques themselves with their various specially trained animals (hunting dogs, birds of prey and tame stags) used as decoys⁵, which are otherwise mostly known from the much later didactic texts of the period⁶.

TRAPPING

In the following, selected examples of hunting laws in the *leges* are introduced and their content briefly explained⁷. In the main, these are legal regulations concerning either bodily injuries or property offences. The former comprise various regulations regarding trapping. These aimed to prevent the injury of domestic animals and especially of people through traps. The causative principle applied, whereby the person setting the traps was responsible for the installations he had set up. This is briefly

2 For overviews see DILCHER/DISTLER 2006; SIEMS 2009; ESDERS 2011; particularly on transmission and the different editions, see HARTMANN 1996. On the question of text inter-dependence, see e.g. SEEBOLD 2010a.

3 The termini/passages in the vernacular occasionally begin with *in mallobergo* (= 'in the Malberg' = 'in court') or *mallobergo* (= in legal terminology). The added mnemonic sentences, originally probably marginalia, are known as 'Malbergische Glossen' and are extremely valuable both as culture-historical and as early linguistic sources. See e.g. SEEBOLD 2007a; 2007b; 2008; 2010b; 2011. As a general stock taking, cf. SCHMIDT-WIEGAND 1991; 2006, esp. 149–151 on the 'Malbergische Glossen'; DALBY 1965, esp. introd. XXXVIII–XXXIX.

4 The best overviews are still provided in LINDNER 1940, esp. 86–95 and 313–335; 1976, esp. 165–167. From a juridical point of view, MANFREDINI 2006, 47–58 (but not sufficiently acquainted with internat. specialist lit.). Also see JARNUT 1985, 767–772; 2000; shorter also RÖSENER 2004, 81–83, and for a wider readership BORD/MUGG 2008, 17–19.

5 See e.g. VON WAGNER 1884; STACH 1922/23; PAUL 1981, esp. 23–42 and 49–53; HÖFINGHOFF 1987; BUGNION 2005, esp. 19–25; DOBIAT 2005; not always in tune with the most recent research KRAH 2007; an overview for a wider readership provided in GIESE 2009.

6 Didactic texts on the art of hunting are only available from the 13th cent. onwards. For the period before the 12th cent., there are only two treatises on falconry. For an overview, see VAN DEN ABEELE 1996.

7 On the individual texts, see the information (with further literature) given in the repertorium GESCHICHTSQUELLEN, which for reasons of space can only be generally referred to here.

mentioned in the Thuringian and Saxon codes⁸. In other *leges*, those setting traps were obliged to secure their location with string or to inform their neighbours about the trap's position. That was a preventative measure aiming to avoid accidents. Social distinctions are also evident here: if a slave came to harm, this was far less serious than if a freeman was involved. This is how the Burgundian code puts it:

GESETZE DER BURGUNDEN, 66/68

Titulus

XLVI. De his, qui tensuras ad occidendos lupos posuerint.

Oportet ut ea, quae in populo nostro aut contentionem faciunt aut hominibus periculum videntur inferre, interdicto legis rationabiliter corrigantur. Et idcirco iubemus:

[1.] Ut quicumque a praesenti tempore occidendorum luporum studio arcus posuerint, statim hoc ipsum vicini sui, eodem divulgante, cognoscant; ita ut tres lineas ad praenos-cenda positi arcus indicia diligenter extendat, ex quibus duae superiores sint; quae, si aut ab homine per ignorantiam veniente aut ab animali domestico tactae fuerint, sine periculo sagittas arcus emittat.

[2.] Quod si hoc modo provisum res fuerit, ut tensurae factae circumstantibus innotescant, quicumque ingenuus incaute veniens casum mortis aut debilitatis incurrerit, nullam ex hoc calumniam is, qui arcus posuerit, sustinebit; sed XXV solidos tantum occisi parentibus curabit inferre.

[3.] Quod si servus fuerit ille, qui est sagittatus, sine aliqua solutione iacebit inultus.

[4.] Verum si is, qui arcus tetenderit, et vicinis non notum fecerit et lineas non illa qua iussimus diligentia et ratione posuerit, quicumque ingenuus aut servus ibidem fuerit interfectus, integrum pretium eius, prout persona fuerit, occisi parentibus aut dominis secundum constitutionem priorum legum a iudice compellatur exsolvere.

p. 98

Titulus

LXXII. De feris pedica

Si quis pedicam feris fecerit extra culturas et in deserto posuerit, et in ea aut homo aut animal fortassis incurrerit, ei, cuius pedica fuerit, nihil penitus calumniae moveatur.

GESETZE DER BURGUNDEN, TRANSL., 53

XLVI. Of those who set traps (drawn bows, tensuras) for killing wolves.

1. It is fitting that those who create strife among our people or cause danger to men should be corrected reasonably by the prohibition of law. And therefore we order that from the present time anyone who sets a bow for the purpose of killing wolves should let those living round about know of it forthwith by giving warning on the same day. He should set up three bowstrings carefully so that they may serve as warning signs of the drawn bow, of which two (of the bowstrings) are placed higher up (above the ground). If these shall be touched by men coming upon them ignorantly, or by domestic animals, the bow will discharge the arrow harmlessly.

2. But if this has been done in the manner provided so that the set traps are known to those living round about, let him who set the bow sustain no criminal charges (*calumniae*)

8 LEX THURINGORUM, p. 66, LIX. *Si homo laqueum vel pedicam vel quodlibet machinamentum at capiendas feras in silva posuerit, ibique pecus vel iumentum alterius captum vel mortuum fuerit, qui machinamentum fecit, dampnum emendet.* LEX SAXONUM, p. 31, LVI. *Qui laqueum fossamve ad feras capiendas fecerit, et haec dampnum cuilibet fecerint, qui eas fecit multam solvat;* p. 32, LVIII. *Si fossa vel laqueus ad feras capiendas praeparata dampnum quodlibet fecerint, a quo parata sunt componatur.*

in the case of any native freeman who incautiously incurs death or injury from this cause; but he will take care to pay twenty-five *solidi* to the relatives of the man killed.

3. But if it is a slave who has been struck by the arrow, let him lie unavenged without any payment (i.e. uncompensated).

4. But if he who set the bow has not made it known to those living near by, and if the bowstrings were not placed with that care or in that manner which we ordered, and if any native freeman or slave has been killed, let him (who set the bow) be compelled by the judge to pay the entire wergeld according to the rank of the person to the relatives or master of him slain, according to the enactment of former laws.

p. 69

LXXII

Of traps for animals

If anyone sets a trap for wild animals outside the cultivated land, and places it in a deserted spot, and by chance, a man or animal runs into it, no blame shall be attributed to him who owned the trap on this account.

A clear distinction is drawn between setting traps far from human habitations (*extra culturas et in deserto*) and setting traps in the neighbourhood of settlements, with the latter necessitating additional measures to minimise risk. The Visigothic law of the *LIBER IUDICIORUM* ('Book of judgments'/Visigothic code, the laws issued in 654 in the Visigothic Kingdom and including 319 [out of a total of 500] clauses classified as *antiqua* ['ancient'], which are attributed to King Liuvigild [† 568]) adds a further dimension to this division by distinguishing trapping on one's own land from the other variants. In addition, in this case (l. VIII, 4, 23) non-local persons are taken into account, as they might come across a trap without having been warned. In this case, after due consideration, the causative principle applies again, as the person having set the trap must pay a third of the fine usually required by law in the case of injury or death.

LIBER IUDICIORUM, 340–341

l. VIII, 4, 22–23

XXII. Antiqua. Si fraudulenter quis ambulans in laqueos feris preparatos incidat.

Si quis sudes in vinea posuerit sive in campo propter feras, et ibi aliquis, dum furtum facere temtat, inciderit, culpe eius oportet adscribi, qui vulnus excepit, quod in rem alienam fraudulenter ingressus est.

XXIII. Antiqua. Ut, qui laqueos feris ponit, et loca discernat, in quibus ponat, et vicinos admoneat.

Si quis in terris suis foveas fecerit, ut feras in eisdem foveis comprehendat, aut laqueos vel arcus protenderit seu ballistas in locis secretis vel desertis, ubi via nulla est, que non consueverat frequentari, nec ubi pecodum possit esse accessus; si alicuius animal per hanc occasionem, que ad feras adparatur, extinguatur aut occidatur, pecus, quod periit, incautus venator exolvat; quia quadrupes sibi ea cabere non potuit. Homines vero proximos vel vicinos venator ante commoneat; et si post monitionem quisquam hec incautus intruerit, nihil ex hoc calumnie venatori oportet opponi, quia se ille periculo, qui commotionem audire neclexit, obiecit. Si quis vero de locis longinquioribus veniens, qui non fuerat ante commonitus, ignorans inciderit et fuerit debilitatus aut mortuus, is, qui feris insidias vel laqueos preparavit, tertiam partem compositionis exolvat, que fuerat hactenus debilitatis hominibus vel occisis in legibus comprehensa, quia in itinere hominum hoc periculum nescientibus apparare non debuit.

XXII. Where a Trespasser Falls into a Trap set for Wild Animals.

Where a person sets traps for wild animals in his vineyard or field, and anyone, while attempting to commit a theft, should be caught in any of said traps, the party injured shall alone be to blame, for the reason that he was trespassing on the premises of another. Ancient law.

XXIII. He who sets Snares or Traps for Wild Beasts, must Inform his Neighbors of the Places where said Snares are Set.

Where anyone, in order to catch wild beasts, digs pits in his fields or vineyards, or sets snares, or fixes bows and ballistas in retired or deserted places, remote from any highway, which are not often visited by man, and where cattle have not easy access, and an animal belonging to any person should be injured or killed by the contrivances placed for wild beasts, as aforesaid, the negligent hunter, through whose act the animal was killed, shall pay the value of the same to the owner, because he did not use a proper degree of care. Said hunter should previously give notice to all the neighbors; and if, after such notification, anyone is injured by the traps aforesaid, he who set them shall not be liable, because the party injured subjected himself to danger, in disregard of the warning he had received. If, however, anyone coming from a distance, and who had not been previously notified, should ignorantly fall into any of said snares, and should be injured or killed thereby, he who set said snares or traps for wild beasts shall pay the third part of the compensation prescribed by law, for persons injured or killed; for the reason that men, while on a journey, should not, without their knowledge, be exposed to such dangers.

In regard to trapping, the Lombard laws of Rothar's Edict ('The edict of the Lombard King Rothar'), promulgated in 643, put a special emphasis on property rights. On the one hand, the causative principle is extended to animals either shot by the hunter, pursued by his dogs or caught in one of his traps which then cause damage (EDICTUS ROTHARI, § 309–310), on the other hand, the legal right of the marksman/successful hunter to the hit, killed or trapped animal is protected (§ 311, 313). This right of appropriation accorded to the hunter covers a period of up to 24 hours after the shot has been fired (§ 314). Anyone who finds an animal wounded by another person (either shot, caught in a trap or tracked down by dogs) and kills it, but does not take the meat and instead notifies the hunter who wounded the animal, is entitled to the right front leg and seven ribs (§ 312). However, anyone who secretly takes meat from a game animal belonging to someone else must pay a fine of six *solidi* to the hunter who wounded the animal (§ 313).

EDICTUS ROTHARI, 72–73

309. *De fera. Si qua fera ab homine plagata fuerit et in ipso furore hominem occiderit, aut quodlibet damnum fecerit, tunc ipse qui plagavit ipsum homicidium aut damnum componat, sub ea vidilicet observatione, ut tamdiu intellegatur culpa venatoris, quamdiu eam secutus fuerit, aut canis ipsius. Nam si ipsa fera postposuerit et se ab ea turnaverit, posteaque fera ipsa damnum fecerit, non requiratur ab eo qui plagavit aut incitavit.*

310. *De pedica. Si in pedica aut in taliola fera tenta fuerit et in hominem aut in peculium damnum fecerit, ipse componat qui pedica misit.*

311. *Si quis super fera ab alio plagata aut in taliola tenta, aut a canibus circumdata, iter suum postponens, volens eam lucrari, super ipsam se miserit, et ab ipsa plagatus fuerit aut occisus, non requiratur ab eo qui plagavit aut incitavit, sed suae culpe et audaciae repotit, qui cum auctoritate lucrandi animo se super eam misit.*

312. *De fera inventa ab alio vulnerata. Si quis fera ab alio vulnerata aut in taliola tenta aut a canibus circumdata invenerit, aut forsitan mortua aut ipse occiderit et salvaverit, et bono animo manifestaverit, liceat eum de ipsa fera tollere dextro armo cum septem costas [!].*

313. *De fera celata. Si quis fera ab alio plagata, aut forsitan mortua invenerit et celaverit, componat solidos sex illi qui eam plagavit.*

314. *Quamdiu fera intellegatur esse venatoris. Si cervus aut qualebit fera ab alio hominem [!] sagittata fuerit, tamdiu illius esse intellegatur, qui eam sagittavit, usque ad aliam talem horam diei aut noctis, id est oras viginti quattuor, quo eam posposuit [!] et se turnavit. Nam qui eam post transactas predictas horas invenerit, non sit culpavelis, sed habeat sibi ipsa fera.*

EDICTUS ROTHARI, TRANSL., 113–114

[On wild animals.]

309. On wild animals. If a wild animal has been hit by one man and in its agony it kills another man or does other damage, then he who struck it shall pay composition for the death or for the damage according to this provision, namely, that the liability of the hunter shall be recognized to last so long as he or his dog follow the animal. But if he has abandoned the animal and has turned away from it, and afterwards the animal causes damage, nothing shall be required from him who struck or incited the beast.

[On animal traps.]

310. On traps. If a wild animal caught in a trap or in a cage causes damage to some man or domestic animal, he who set the trap shall pay the composition.

[Concerning men killed by trapped animals.]

311. If a man interrupts his journey in order to pick up an animal struck by another man or held in a cage trap or surrounded by dogs and the man is struck or killed by that animal, nothing shall be required from him who had hit or trapped it, but rather the blame shall be imputed to him who had the audacity to attempt to take it for his own.

[On finding wounded animals.]

312. On finding wounded animals. He who finds an animal which has been wounded by another man or held in a cage trap or surrounded by dogs, or which is dead, and he kills the animal himself and leaves it, may take the right foreleg of the animal together with seven ribs if he makes it clear that he has done it with good intent.

[On hiding found animals.]

313. On hiding animals that have been found. He who finds and hides an animal wounded or killed by someone else shall pay six *solidi* as composition to him who wounded it.

[How long animals belong to the hunter.]

314. On how long animals belong to a hunter. If a stag or other animal is shot [and killed] with an arrow by any man, it belongs to the one who shot it up until the next same hour of the day or night, that is, for twenty-four hours after he set it aside and went away. Anyone who finds the animal after the prescribed number of hours has passed shall not be liable but may have the animal for himself.

In terms of hunting techniques, too, trapping, alongside hunting with bow and arrow (*sagitta*, *sagittare*) is described in greater detail⁹. Pit traps (*foveae*), sometimes with trapping stakes acting as snap traps (*sudes*), as well as hunting with snares (*laquei*), *pedica* traps (equated with *tagliola* in Lombard law, these are probably folding traps or twitch-ups)¹⁰, box traps (*trappa*)¹¹ and weapon traps (either a trap with a bow [*arcus*] as spring trap or a spear trap [*balista*]) are all mentioned (on trapping with reference to the *leges*, see LINDNER 1940, esp. 302–338; see also LINDNER 1975). The game animals explicitly listed are deer (*cervus*, EDICTUS ROTHARI), wild boar (especially males, *aper*)¹², wolf (*lupus*, LEX BURGUNDIONUM) and turtle dove (*turtur*)¹³. In addition, game animals such as European bison, bear, beaver, hare, crane and goose, are also mentioned in the context of trained animals helping in the hunt, namely dogs and birds of prey¹⁴.

ANIMALS IN THE HUNT: STAGS, WILD CATTLE, BIRDS OF PREY AND DOGS

The frequent discussion of trapping in the *leges* leads to the general question of hunting techniques in the light of the *leges*. One practice noteworthy is the hunting of hoofed game using a tame animal of the same species. This method is also documented archaeologically (in the cemeteries of Rullsdorf near Lüneburg in Lower Saxony and of Sindelsdorf in Bavaria; cf. GRIMM/SCHMÖLCKE in this vol., Summary) and in pictorial sources (the mosaic of Lillebonne, dép. Seine-Maritime, France, 3rd cent. AD). It appears to have fallen out of fashion in central Europe in the High Middle Ages, as written references are absent from the 10th century onwards (see HÖFINGHOFF 1987; independently also DOBIAT 2005, 82–85). The EDICTUS ROTHARI distinguishes the value of a tame stag before and after it reached sexual maturity. A ‘roaring’ (bellowing) male deer was capable of attracting rivals in the rutting season in autumn, and was therefore twice as valuable as a domesticated but not yet bellowing animal. However, in both cases a thief had to pay the so-called *Achtgeld*, i.e. an eightfold fine = the eightfold counter-value, as in both cases the offence was theft.

- 9 In Bavarian law, hunting with bow and arrow is described as follows: LEX BAIWARIORUM, p. 456–457, *Tit. XIX. De mortuis et eorum causis. V. Si vulneraverit mortuum. Et si, ut sepe contigit, aquilę vel ceteri aves cadaver repperint et super ad lacerandum consederint, et aliquis sagittam eicerit et cadaver vulneravit et repertum fuerit, cum XII solidos [!] componat.* LEX BAIWARIORUM, TRANSL., p. 168, XIX. 5. And if, as often happens, eagles and other birds find the corpse, and because of this it is lacerated, and someone shoots an arrow at the bird and injures the corpse instead, and this is discovered, let him compensate with twelve *solidi*.
- 10 *Pedica* can occasionally also mean a snare. In classical Latin, the term mostly denotes a fetter, shackle. See “*pedica*” in: NOVUM GLOSSARIUM MEDIAE LATINITATIS 1995–2000, col. 100–101, and in: LEXICON LATINITATIS NEDERLANDICAE 1998, p. 3527 (= P 245); LINDNER 1940, 322–329.
- 11 PACTUS LEGIS SALICAE, 41, § 10. *Si quis aucellum de trappa furauerit, mallobergo acfalla, solidos III culpabilis iudicetur.* PACTUS LEGIS SALICAE, TRANSL., p. 50, 10. If anyone steals a small bird from the snare (known in the malberg as ‘acfalla’), let him be held liable for three *solidi*.
- 12 PACTUS LEGIS SALICAE, [text groups A and C (in case of inconsistencies I am following C) without the secondary additions, which Eckhardt has put in square brackets] p. 125, *Tit. XXXIII. De uenationibus. § 5. Si quis aprum lassum, quem canes mouerunt, occiderit, mallobergo haroassina, sunt DC denarii qui faciunt solidos XV culpabilis iudicetur.* PACTUS LEGIS SALICAE, TRANSL., p. 77, 33. Concerning the theft of animals taken from the hunt. 5. If anyone kills a boar, rendered exhausted, that dogs have frightened (known in the malberg as ‘haroassina’), let him be held liable for 600 *denarii*, which make fifteen *solidi*.
- 13 PACTUS LEGIS SALICAE, p. 41, only as secondary addition: § 9. *Si quis turturem de rete aliena furauerit, solidos III culpabilis iudicetur.* PACTUS LEGIS SALICAE, TRANSL., p. 50, 9. If anyone steals a turtle-dove from another’s net, let him be held liable for three *solidi*.
- 14 See below. LEX ALAMANNORUM, p. 154–155, XCV, 1–16, lists further game animals (mammals and birds). However, these are not animals hunted in the wild, but wild animals held in captivity.

EDICTUS ROTHARI, 73

315. *De cervo domestico. Si quis cervum domesticum, qui tempore suo rugire solit, fragiaverit, conponat domino eius solidûs duodicem; nam si furaverit, in actogild reddat.*

316. *Si quis cervum domesticum alienum, qui non rugierit, intrigaverit, conponat domino eius solidos sex; nam si eum furaverit, reddat in actogild.*

EDICTUS ROTHARI, TRANSL., 114

[On domesticated stags.]

315. On domesticated stags. He who strikes a domesticated stag which has reached maturity (is “able to roar in its season”) shall pay twelve *solidi* as composition to its owner. He who steals it shall return it eightfold.

[Concerning the trapping of someone else’s stag.]

316. He who ensnares another’s domesticated stag which is not yet mature shall pay six *solidi* as composition to its owner. He who steals it shall return it eightfold.

The laws of the Alamans differentiate even more closely on the subject of male and female deer or wild cattle used to attract their conspecifics than Rothar’s Edict, or the laws of the Salic Franks and the derived laws of the Ripuarian Franks (for the Franks in Ripuaria = the area around Cologne, recorded in the 2nd quarter of the 7th cent.)¹⁵.

PACTUS LEGIS ALAMANNORUM, [after manuscr. group A] 28–29

[(titulus) XXIII]

(1) *Si quis vesontum bubalum si [scil. sive] cervum, quod brugit, furaverit aut occiderit, 12 solidos conponat.*

(2) *Et cervus ille treudis non habet, medio solido conponat.*

(3) *Si treudis habet et cum ipso nihil sagittatum est, solvat solido uno.*

(4) *Si ruvius feramis cum ipso sagittatus est, 3 solidos solvat.*

(5) *Si niger, solidos 6 conponat.*

(6) *Si involatus fuerit, novemgeldos conponat.*¹⁶

[(titulus) XIV]

(1) *Si cervia indomita fuerit occisa, tremisse solvat.*

15 PACTUS LEGIS SALICAE, [text groups A and C (in case of inconsistencies I am following C) without the secondary additions, which Eckhardt has put in square brackets], p. 124–125, XXXIII. *De uenationibus*. § 2. *Si quis ceruum domesticum signum habentem furaverit aut occiderit, qui ad uenationem mansuetus est, et hoc per testibus [ei] fuerit adprobatum, quod eum dominus suus in uenationem habuisset et cum ipso duas aut tres feras occidisset, mallobergo trouuidio hoc est, MDCCC denarios qui faciunt solidos XLV culpabilis iudicetur.* § 3. *Alium uero domesticum ceruum, qui in uenatione adhuc non fuit, [qui eum] inuolauerit aut occiderit, mallobergo trouuidio hoc est, MCC denarios qui faciunt solidos XXX culpabilis iudicetur.* PACTUS LEGIS SALICAE, TRANSL, p. 76–77, 33 Concerning the theft of animals taken from the hunt. 2. If anyone steals or kills a domesticated and clearly marked stag that is trained for hunting, and the fact is proven through witnesses that its owner had it for hunting and that he had killed two or three wild animals with the stag (known in the malberg as ‘trouuidio’), let him be held liable for 1800 *denarii*, which make forty-five *solidi*. 3. But regarding another domesticated stag that is not ready for the hunt, he who steals or kills it (known in the malberg as ‘trouuidio chamstala’), and it can be proven that he did this, let him be held liable for 1200 *denarii*, which make thirty *solidi*. – LEX RIBVARIA, p. 97–98, Tit. 46 [De venationibus] 2. *Si quis cervum domitum vel cum triutis occiderit aut furaverit, non sicut de reliquis animalibus texaga exigatur, sed tantum 45 solid. multetur.* 3. *Sin autem in venationem non fuit, 30 solid. multetur.* LEX RIBVARIA, TRANSL., p. 187–188, 46 [Concerning (the theft) of animals taken from the hunt] 2. If anyone kills or steals a domesticated or a shackled [triutis] stag, let [the payment] for the theft [texaga] not be exacted as for other types of animals, but let him be fined as much as forty-five *solidi*. 3. But if it was not taken from the hunt, let him be fined thirty *solidi*.

16 From § 6, it emerges that (in spite of the phrasing in § 1 ‘steals or kills’) the fines set in § 1–5 have to be paid once in case of a killing, but ninefold in case of theft.

- (2) *Si trudis habuit, medio solido.*
 (3) *Si cum ipsam ruviam fera sagittata fuerit, 3 solidos solvat.*
 (4) *Si nigra, 6 solidos solvat.*
 (5) *Si involata fuerit, novemgeldos conponat.*

PACTUS LEGIS ALAMANNORUM, TRANSL., 53–54

XXIII.

1. If anyone steals or kills a bison, a buffalo, [or] a stag that bellows, let him compensate with twelve *solidi*.
2. And [if] that stag does not have shackles, let him [the perpetrator] compensate with one-half *solidus*.
- 3.¹⁷ If it has a shackle and nothing has been killed by arrows with its help, let him [the perpetrator] pay one *solidus*.
- 4.¹⁸ If a red deer has been killed by arrows with its help, let him pay three *solidi*.
5. If a black [deer]¹⁹, let him compensate with six *solidi*.
6. If it is stolen, let him compensate ninefold.

XXIV.

1. If a wild doe is killed, let him [the perpetrator] pay a *trimissis*.
2. If it has a shackle, one-half *solidus*.
3. If a red doe [is killed] by arrows, let him pay three *solidi*.
4. If a black [doe], let him pay six *solidi*.
5. If it is stolen, let him compensate ninefold.

The sign of a tame animal is the wearing of fetters (*truntis, treundis*) which prevented escape (cf. LEX ALAMANNORUM, [following manuscr. group A] p. 154–155, XCV. 1–10). Once again, the staggered amounts of the fines show the relative worth of the animals. The crucial point is whether the tame animal has already been successful in the hunt or not, and which kinds of game had been killed. Even from a purely quantitative point of view, birds of prey and hunting dogs play a much more important role in the *leges* than domesticated stags. A fundamental problem in this respect, which will be impossible to solve with certainty, is the zoological determination of the birds used, since the Latin terminology does not allow an unambiguous identification. The terms *acceptor*, *accipiter* and *sparvarius* were not consistently used for just one species (it is therefore confusing when modern translations render e.g. *accipiter* as ‘falcon’; cf. shortly GIESE in press and W. PRUMMEL in this vol.). The term *falco* does not occur at all. However, the vernacular commentaries do offer some orientation (HÖFINGHOFF 1987, 160–171). How one came to own a bird of prey in the first place is revealed by the EDICTUS ROTHARI. To obtain a bird, one had to rely on capturing it in the wild, normally by taking a chick from its nest. During the developmental stage from eyas to passer, it was necessary to constrain the fledgling with a string, so that it was not then able to avoid being handled by people. The *leges* give us the earliest known evidence from the Middle Ages for the practice of taking chicks from their nests (cf. on later sources VAN DEN ABEELE 1994, 94–95). It has to be remembered that

17 Rivers makes a factual error in his transl. of this paragraph: ‘3. If it has a shackle and is not [killed] by arrows, let him pay one *solidus*’.
 18 Rivers makes a factual error in his transl. of this paragraph: ‘4. If a red deer [is killed] by arrows, let him pay three *solidi*’.
 19 This rather refers to wild cattle as big game. See LEX BAIWARIORUM, p. 463, Tit. XX. *De canibus et eorum compositione. VII. Item alia. De his canibus, qui ursis vel bubulis id est maioribus, quod suarzuuild dicimus, persecuntur, si de his occiderit, cum simile et VI solidis conponat.* LEX BAIWARIORUM, TRANSL., p. 169, XX. Concerning dogs and their compensation. 7. Concerning dogs that chase bears or buffaloes, that is, large wild animals (which they call ‘suarzwild’), if he kills one of these, let him compensate with one equal in value and six *solidi*.

breeding birds of prey in captivity is a 20th century phenomenon, so that previously one had to necessarily rely on a juvenile or adult supply from the wild (cf. GIESE 2010a, 359). The right to own the chicks was already acquired by marking out the tree on which their nest was located. The mention of a hunting territory reserved for the king is notable in this context.

EDICTUS ROTHARI, 74

320. *De acceptoris. Si quis de silva alterius accepturis tulerit, excepto gabagium regis, habeat sibi. Nam si dominus silvae supervenerit, tollat acceptoris, et amplius culpa adversus eum non requirat. Et hoc iubemus: si quis de gabagio regis tulerit accepturis, sit culpabiles solidi. duodicem.*

321. *Si quis de arbore signato in silva alterius acceptures de nido tulerit, conponat solidos sex.*

EDICTUS ROTHARI, TRANSL., 114–115

[*On falcons.*]

320. On falcons. He who takes a falcon from someone else's wood may have it, except in the king's preserve. But if the lord of the forest comes along, he may take the falcon and no further blame will be imputed to him [who found the falcon]. We order, however, that he who takes a falcon from the king's preserve shall pay twelve *solidi* as composition.

[*On taking falcons from a marked tree.*]

321. He who takes falcons from a nest in a marked tree in someone else's wood shall pay six *solidi* as composition.

The regulations concerning the trees on which birds are nesting leads to what the LEX SALICA (the 'Salic laws' of the Franks), dating to the last years of the reign of King Clovis I († 511), has to say about the theft of birds of prey. Under the heading of 'The theft of birds', birds of prey are mentioned before chickens, ducks and the like, i.e. hierarchically ranked according to their value. Within the bird of prey category, the decisive factor is whether the bird was taken from its nest (*de arbore*), i.e. was still untamed, or whether it was in possession of people as a bird already abraded/to be abraded. In the latter case ('garden bird'), a theft from the perch (*pertica*, at the same time the only mention of a training aid in the *leges*) in the garden, that is to say outside of a locked room, is distinguished from the theft of a bird kept under lock and key and hence taken by breaking into a building.

PACTUS LEGIS SALICAE

[text groups A and C (in case of inconsistencies I am following C) without the secondary additions, which Eckhardt has put in square brackets], 39–41

VII. De furtis animum

§ 1. *Si quis accipitrem de arbore furauerit et ei fuerit adprobatum, mallobergo ortfocla sunt, CXX denarios qui faciunt solidos III culpabilis iudicetur excepto capitale et dilatura.*²⁰

§ 2. *Si quis accipitrem de pertica furauerit et ei fuerit adprobatum, mallobergo uueiape hoc est, DC denarios qui faciunt solidos XV culpabilis iudicetur.*

§ 3. *Si quis accipitrem deintro clauem furauerit et ei fuerit adprobatum mallobergo ortfocla [siue] uueiano antedio hoc est, MDCCC denarios qui faciunt solidos XLV culpabilis iudicetur excepto capitale et dilatura.*

20 Value and fine for loss of use = reimbursement value (intrinsic value, *capitale*) and compensation for loss of use (*delatura/dilatura*, old High German 'wirdira'), the interpretation of *delatura* remains controversial. It is a kind of fine to be paid for offences against property, in addition to the value and the fine for the offence.

§ 4. *Si quis sparuarium furauerit, mallobergo socelino, sunt denarii CXX qui faciunt solidos III culpabilis indicetur excepto capitale et dilatura.*

PACTUS LEGIS SALICAE, TRANSL. 49–50

7. Concerning the theft of birds

1. If anyone steals a hawk from a tree (known in the malberg as ‘ortfocla’), and it can be proven that he did this, let him be held liable for 120 *denarii*, which make three *solidi*, in addition to its value and a fine for the loss of its use.
2. If anyone steals a hawk from a perch (known in the malberg as ‘uuciaepe ortfocla’), and it can be proven that he did this, let him be held liable for 600 *denarii*, which make fifteen *solidi*, in addition to its value and a fine for the loss of its use.
3. But if anyone steals a hawk that is locked up (known in the malberg as ‘ortfocla’ or ‘uuciano antedio’), and it can be proven that he did this, let him be held liable for 1800 *denarii*, which make forty-five *solidi*, in addition to its value and a fine for the loss of its use.
4. If anyone steals a sparrow hawk (known in the malberg as ‘socelino’), let him be held liable for 120 *denarii*, which make three *solidi*, in addition to its value and a fine for the loss of its use.

In addition to differentiating birds of prey by their degree of taming, as in the Salic laws, the *leges* also categorise birds according to the prey they are specialised on. This aspect is most detailed in the Bavarian laws (see Fig. 1), whose text existed in written form at the very latest after the Synod of Aschheim in 756.

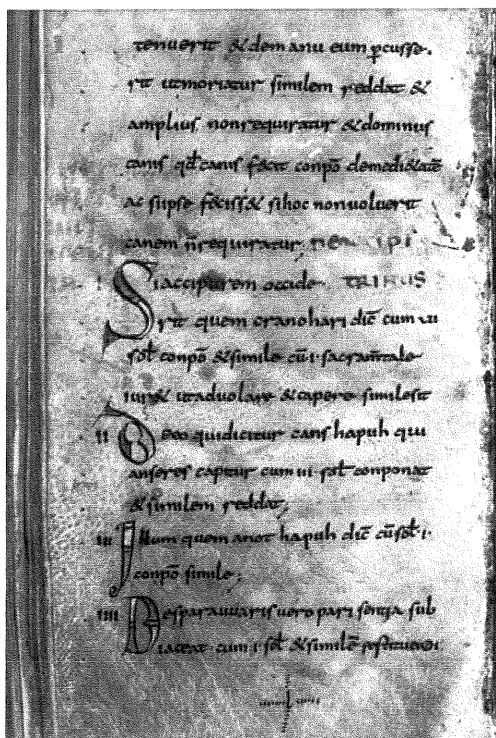


Fig. 1. *Lex Baiuvariorum* (manuscript from Ingolstadt), oldest manuscript of the text, here titulus XX, 9 and XXI, 1–4, written down in south-eastern Bavaria around 800–825 AD (Munich, Universitätsbibl., Cim. 7 [= 8° Cod. ms. 132], fol. 83v, online: <http://epub.ub.uni-muenchen.de/10921/> [visited 3.6.2012]).

LEX BAIWARIORUM, 465–466

Titulus XXI. De accipitribus.

I. De accipitribus. Si accipitrem occiderit, quem chranohari dicunt, cum VI solidis et simile conponat; et cum I sacramentale iuret, ut ad volare et capere similis sit.

II. Item alia. De eo qui dicitur canshapuh qui anseres capit, cum III solidis conponat et similem reddat.

III. Illum quem anothapuh dicimus, cum solido et simili conponat.

IIII. Item alia. De sparuuariis vero pari sententia subiaceat cum solido et simili restituendi et cum sacramento, ut tales sint, quales interfectione damnavit.

V. [Item alia.] Si vero furtu ablati fuerint, per omnia furtivum cogantur solvere, ut lex conpellit.²¹

LEX BAIWARIORUM, TRANSL., 170

XXI. Concerning hawks.

1. If someone kills a hawk, which they call ‘cranohari’, let him compensate with six *solidi* and one equal in value, and let him swear with one oathtaker that it is of equal value in flying and seizing.

2. For one that is called ‘canshapuh’, which seizes geese, let him compensate with three *solidi* and return one equal in value.

3. For the one that we call ‘anothapuh’, let him compensate with one *solidus* and one equal in value.

4. Concerning ‘sparawaris’, however, let him be liable for an equal fine, that is, one *solidus*, and let him give compensation of equal value and take an oath, saying that they are of equal value to those killed.

5. If, however, they are carried off in theft, let him be compelled to pay for all things as if stolen, as the law requires.

It was not only a purely financial reparation that was awarded, but it was also ensured that the wronged owner of the stolen bird would receive an animal of equivalent hunting skill as compensation (this aspect is especially stressed in Tit. XXI, 1). The vernacular composite terms provide a welcome glimpse of the kinds of prey animals and therefore also the species of birds of prey that were in use (cf. HÖFINGHOFF 1987, 164–168 with factual errors [e.g. „Kranichadler“, ‘crane eagle’]; LINDNER 1976, 166–167). Accordingly, the ‘cranohari’ is a peregrine falcon trained to hunt cranes, and with a fine of six *solidi* the most valuable bird of prey. There is a considerable drop in the amount of the fine for the next most valuable animals, the ‘canshapuh’ (a female hawk trained to hunt wild geese) and the ‘anothapuh’ (a male hawk trained to hunt wild ducks). This distinction is based on the physical differences between tercel and female, still evident today. The sexual dimorphism of the species given, the female is physically stronger and can therefore kill larger game animals. Crane hunting makes reference to the so-called ‘high flight’, the mention of hawk and sparrowhawk to their hunting technique in the so-called ‘low flight’²². That birds of prey were highly valued and seen as symbols of noble status is also shown by a listing in the Ripuarian Laws. Following a catalogue of wergeld amounts (LEX RIBVARIA, p. 92–94, Tit. 40) (the highest sum, 200 *solidi*, applies to the killing

21 This refers to the *Neungeld*, or ninefold fine, in LEX BAIWARIORUM, p. 366, Tit. IX De furto. I. [Si quis liber furtum fecerit] Si quis liber aliquid furaverit, qualemcumque rem niungeldo conponat, hoc est novem capita restituat.

22 Hawk (*Accipiter gentilis* L.) and sparrowhawk (*Accipiter nisus* L.) are grip killers who hunt a short way from the ground and over short distances (‘low flight’), while falcons are bite killers and hunt over long distances and high up in the air (‘high flight’). On hunting techniques and the classification of birds of prey, cf. Van den ABEELE 1994, 45–91.

of a freeman), there is a list of standardised equivalent values which were accepted instead of cash for the wergeld payment. Alongside status attributes such as swords and armour, this ‘conversion table’ also features birds of prey with their equivalent monetary value²³.

Hunting dogs are treated in the *leges* in a way quite analogous to birds of prey (cf. VON WAGNER 1884; STACH 1922/23; LINDNER 1940, 246–286; PAUL 1981, 23–42 and 49–53; HÖFINGHOFF 1987, 210–236; SCHWENK 1991; BUGNION 2005, esp. 19–25). The dog was (and is) a hunter’s most important helper (for an overview in monograph form, see BUGNION 2005; with further lit. GIESE 2010b; cf. also the sample entry „Hund“ in: ANIMALITER; VANG PETERSEN and SCHMÖLCKE on dogs in this vol.), as is evident from the detailed consideration given to dogs in the *leges*. A direct connection between hawking and hunting dogs is provided by the mention of the *canis acceptoricus* in the Frisian Laws, essentially a ‘hawking dog’ who provided support for birds of prey on the ground by flushing out small game²⁴. This animal also appears in the Bavarian laws as a hawk-dog (‘hapuhhund’)²⁵. Just like in the case of the birds of prey, the staggered compensation catalogues are an indicator of the value accorded to hunting dogs. Almost exclusively, monetary fines are mentioned, but in the Burgundian laws we come across the exceptional case of a degrading punishment for thieves: to encourage payment morale, as it were, in the event of someone’s stealing a hunting dog, he was threatened with a public shaming ritual. If a bird of prey was stolen, the laws envisaged the obligation, associated with a high risk of injury, to allow the bird to consume a fixed amount of six ounces of meat on the perpetrator’s naked breast.

GESETZE DER BURGUNDEN, 124

Titulus

XCVII. De canibus veltravis aut segutiis aut petrunculis.

Si quis canem veltravum aut segutium vel petrunculum praesumpserit involare, iubemus, ut in conventu coram omni populo posteriorem ipsius canis osculetur; aut sex solidos illi, cuius canem involavit, cogatur exsolvere, et multae nomine solidos II.

Titulus XCVIII. De acceptoribus.

Si quis acceptorem alienum involare praesumpserit, aut VI uncias carniū acceptor ipse

23 LEX RIBVARIA, p. 94–95, Tit. 40 [De diversis interfectionibus] 11 *Si quis weregeldum solvere coeperit, bovem cornutum videntem et sanum pro duos solid. tribuat. Vaccam cornutam videntem et sanam pro uno solido tribuat. Equum videntem et sanum pro septem solid. tribuat. Equam videntem et sanam pro tres solid. tribuat. Spatam cum scoligilo pro septem solid. tribuat. Spatam absque scoigilo pro tres solid. tribuat. Brunia bona pro duodecim solid. tribuat. Helmo condericto pro sex solid. tribuat. Scuto cum lancia pro duos solid. tribuat. Bagnbergas bonas pro sex solid. tribuat. Auceptorem indomito (!) pro 3 solid. tribuat. Commorsum gruarium pro sex solid. tribuat. Auceptorem mutatum pro 12 solid. tribuat.* LEX RIBVARIA, TRANSL., p. 185–186, 40 [concerning different (categories of) homicide] 11. If anyone begins to pay a wergeld, let him give a horned ox, able to see and healthy, for two *solidi*. Let him give a horned cow, able to see and healthy, for one *solidus*. Let him give a stallion, able to see and healthy, for seven *solidi*. Let him give a mare, able to see and healthy, for three *solidi*. Let him give a sword with a sheath [*scoligilum*] for seven *solidi*. Let him give a sword without a sheath [*scoigilum*] for three *solidi*. Let him give a metal tunic [*brunia*] in good condition for twelve *solidi*. Let him give a helmet [*helmus*] in good condition for six *solidi*. Let him give a shield with a lance for two *solidi*. Let him give [a pair of] leggings [*bagnberga*] in good condition for six *solidi*. Let him give an untrained hawk for three *solidi*. Let him give a cranesizing hawk for six *solidi*. Let him give a trained hawk for twelve *solidi*. – The Carolingian royal laws turn against this possibility, indicated in the Ripuarian laws, of using birds of prey and swords as composition, ‘since because of these two an injustice is sometimes perpetrated, as they are accorded a higher value than they actually have’. *Capitula legibus addenda* of the year 818/19, in: CAPITULARIA REGUM FRANCORUM, no. 136, p. 280–285, here c. 8, p. 282, l. 28–31 *Quid in compositione wirgildi dari non debeat. In compositione wirgildi volumus ut ea dentur quae in lege continentur, excepto accipitre et spata, quia propter illa duo aliquoties periurium committitur, quando maioris pretii quam illa sint esse iurantur.*

24 LEX FRISIONUM, p. 46, *De servo aut iumento alieno occiso. Tit. IIII. Hoc inter Laubaci et Sincfalām: § 4. Canem acceptoricium vel braconem parvum, quem barmbrac cum vocant, IIII solid(is) componat.* Cf. HÖFINGHOFF 1987, 231–233 and W. PRUMMEL in this vol., Tab. 3.

25 LEX BAIUARIORUM, p. 462, Tit. XX. *De canibus et eorum compositione. VI. De eo cane qui dicitur hapuhhūnt pari sententia subiaceat.*

super testones ipsius comedat, aut certe, si noluerit, VI solidos illi, cuius acceptor est, cogatur exsolvere, multae autem nomine solidos II.

GESETZE DER BURGUNDEN, TRANSL. 84

XCVII

Of hounds (*canes veltravi*), hunting dogs (*segutii*), or running dogs (*petrunculi*)

If anyone shall presume to steal a hound, or a hunting dog, or a running dog, we order that he be compelled to kiss the posterior of that dog publicly in the presence (*in conventu*) of all the people, or let him be compelled to pay five *solidi* to him whose dog he took, and a fine of two *solidi*.

XCVIII

Of falcons

If anyone presumes to steal another's falcon, either let the falcon eat six ounces of meat from his breast (*super testones*), or if he does not wish, let him be compelled to pay six *solidi* to the owner of the falcon; moreover, let the fine be two *solidi*.

The catalogue of fines in the *LEX BAIWARIORUM* is particularly informative regarding the different functions of dogs during the hunt. This source also illustrates that clearly differentiated breeds of dogs in the modern sense did not yet exist in the Early Middle Ages (cf. GIESE 2010b, 121–123). Three kinds of scenthounds are distinguished. First, there is the 'leitihunt' leading the pack, then the 'trip-hunt' – both are the best pack dogs for pursuing the scent of game. The third is the 'spurihunt', who follows a scent on a leash. These terms accordingly stress either the dogs' running capacity or their good nose. However, that does not provide a precise statement about the appearance of these animals. Most likely, these were medium-sized foxhound-like dogs. One exception is the beaver hound, for which it is mentioned that he hunts underground, so we may deduce a necessarily small stature. He, too, commands the highest possible fine, most likely because of his special training to hunt inside a burrow. His primary target were beavers and otters, which were prized as a Lenten food and for their pelts (BLASCHITZ 1998). The text becomes more precise for *veltris*, certainly a tall and slim greyhound, which is capable – as is explicitly stated – of chasing hares on sight, catching up with them and killing them. The dogs in Tit. XX, 7 should probably be thought of as similar to mastiffs, as they were sent out against bears and wild cattle. The last to be mentioned is the sheepdog, which must also possess some hunting skills if it is to protect the flock from wolves.

LEX BAIWARIORUM, 460–464

Titulus XX. De canibus et eorum compositione.

I. Si quis canem seucem quem leitihunt dicunt, furaverit vel occiderit, aut similem aut ipsum reddat et cum VI solidis componat; et si negare voluerit, cum III sacramentalibus iuret secundum legem suam.

II. Alia. Si autem seucem ductum quem triphunt vocant, furaverit, cum III solidis componat aut cum sacramentale iuret.

III. Alia. Si autem seucem qui in ligamine vestigium tenet, quem spurihunt dicunt, furaverit, cum VI solidis componat et similem aut ipsum reddat.

IIII. Item alia. De eo cane quem bibarhunt vocant, qui sub terra venatur, qui occiderit, alium similem reddat et cum VI solidis componat.

V. Item alia. De canibus veltricibus qui leporem non persecutum sed sua velocitate comprehenderit, cum simili et III solidis componat.

VI. De eo cane qui dicitur hapuhhunt pari sententia subiaceat.

VII. Item alia. De his canibus, qui ursis vel bubulis id est maioribus, quod suuarzuuild

dicimus, persecuntur, si de his occiderit, cum simile et VI solidis conponat.
VIII. Item alia. Qui vero pastorem qui lupum mordet, occidit, cum III solidis conponat.

LEX BAIWARIORUM, TRANSL., 169

XX. Concerning dogs and their compensation.

1. If anyone steals or kills a hunting dog, which they call 'leitihunt', let him return that one or one equal in value and compensate with six *solidi*. And if he wishes to deny it, let him swear according to his law with three oath-takers.
2. If, however, he steals a trained hunting dog, which they call 'triphunt', let him compensate with three *solidi* or swear with one oath-taker.
3. Whoever steals [a dog] which tracks footprints while being led by a leash, which they call 'spurihunt', let him compensate with six *solidi* and return one equal in value or that one.
4. Concerning dogs, which they call 'piparhunt', which hunt game under the ground, let him return, if he kills it, one equal in value and compensate with six *solidi*.
5. Concerning greyhounds that not only chase a rabbit but catch it through swiftness, let him compensate with one equal in value and three *solidi*.
6. Concerning a dog which is called 'hapuhhunt', let him be liable for an equal fine.
7. Concerning dogs that chase bears or buffaloes, that is, large wild animals (which they call 'suarzwild'), if he kills one of these, let him compensate with one equal in value and six *solidi*.
8. However, let whoever kills a sheep dog that catches the wolf compensate with three *solidi*.

While several of the *leges* mention tamed wild birds²⁶, probably used as decoy birds or for training birds of prey (such as cranes), the texts are almost entirely silent on the topic of fowling, apart from in connection to hawking (on hunting techniques, see the overviews in SCHWENK 1967; LINDNER 1973; FELDNER 1997; GASSER 2005). The *leges* contain no information on the trapping of birds with various glues, so popular in Roman Antiquity (BÖHR 1992; VENDRIES 2009), and which was at least known of at the Carolingian court, as attested by an advisory letter of the mid-9th century²⁷. Neither hunting corvids with the decoy owl²⁸, also already practised in Antiquity, nor hunting rabbits with a tame polecat (ferret) (cf. REICHSTEIN 1995; VAN DAMME/ERVYNCK 1992, without detailed references), are mentioned in the *leges*. The almost total silence on hunting with nets is also striking²⁹.

26 With references to songbirds/caged birds, cf. LEX BAIWARIORUM, p. 466–467, Tit. XXI, 6 [*De avibus.*] *De his avibus quae de silvaticis per documenta humana domesticentur industria et per curtes nobilium mansuescunt volitare atque cantare, cum solido uno et simili conponat atque insuper ad sacramentum.* LEX BAIWARIORUM, TRANSL., p. 170, Tit. XXI, 6; concerning the birds that are domesticated from wild birds by human effort and are tamed so that they can fly and sing in the courtyards of nobles, let him compensate with one *solidus* and one equal in value, and, in addition, let him take an oath. Cf. ORTALLI 1997, 1409–1410; also e.g. PACTUS LEGIS ALAMANNORUM, [following manuscr. group A] p. 30 ([*tit.*] XXVI) (1) *Si gruis fuerit involata aut occisa, 3 solidos conponat.* (2) *Si auca fuerit furata aut occisa, novigildus solvat.* (3) *Anite, gariola, cicunia, corvo, cornicla, columba et chaucha, alia similia requirantur.* PACTUS LEGIS ALAMANNORUM, TRANSL., p. 54 XXVI. 1. If a crane is stolen or killed, let him compensate with three *solidi*. 2. If a goose is stolen or killed, let him pay ninefold. 3. For a duck, jay, stork, raven, crow, dove, and cuckoo, let [compensation] be required as for other similar [birds].

27 EPISTOLAE VARIORUM, no. 10, p. 633–635, esp. p. 634, l. 11. Cf. LINDNER 1940, 340; GIESE in press.

28 See previous note and cf. VAN WIJNGAARDEN-BAKKER 2010.

29 See above, note 13.

SUMMARY

The codified laws in the *leges* are a remarkable document of how diverse hunting practice already was in the Early Middle Ages. The comparatively high level of detail and especially the frequency with which hunting is mentioned in the *leges* are a conclusive measure for how widespread hunting and fowling have been since the 6th century. From the Lombard laws (EDICTUS ROTHARI, § 320–321) of the mid-7th century, it becomes clear that even the rights of ownership and usage of certain forests had to be regulated for certain individuals (the king or individuals below the level of the king)³⁰. By setting fines which are staggered according to specifically defined quality criteria, the *leges* create hierarchies according to social criteria of evaluation. These passages, mostly concerned with the trained animals involved in the hunt and their co-operation with people, illustrate the differentiation and variety of early medieval hunting much more clearly than any other set of contemporary sources. As such, this also touches on the question of the chronological and geographical origins of hawking, but without being able to provide a definite answer (for a summary of these issues, see GEORGES 2008, 16–18). It is clear, however, that the treatment of hawking in the *leges* presupposes that this practice was already widespread. As written sources, the *leges* complement and expand the picture we can derive from imagery (e.g. mosaics such as that from Argos, dated to around 500, or the one from the Musée national du Bardo, Tunis, that shows a hare hunt and dates back to the second half of the 5th century plus the mosaic from Lillebonne depicting hunting with a tame stag) and from archaeological evidence³¹.

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30 On the beginnings of forestry law, see recently ZOTZ 1997; LORENZ 1998; 1999; DASLER 2001; 2005; 2008; 2011.

31 On the mosaics, cf. LINDNER 1973, 121–148 with illustrations p. 128–129 and 139–143; ÅKERSTRÖM-HOUGEN 1974; TROVABENE 2006; HANOUNE 2009. On the archaeological evidence see the contributions by C. DOBIAT, W. PRUMMEL and M. VRETEMARK in this vol.

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