

THE BLOODFEUD OF THE FRANKS¹

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AMONG the debts owed by the Germanic tribes to the Romans must be reckoned, with certain reservations, the debt of law. The earliest *Volksrechte* bear traces of the complex legacy of Roman Vulgar Law.² Few of us now, students of Frankish history and law, could agree with Waitz that "von Recht kann wenig die Rede sein",³ or would deny that the barbarian successor-states do in fact become the more intelligible as the wanderings of the *Codex Theodosianus* and its western derivatives are kept in mind.⁴ And yet a danger lurks here, too; the danger of overlooking the simple truth that the core of all Germanic customary practice was German. This is why I venture to spend a little time upon the most undoubtedly Germanic of all barbarian institutions, the blood-feud, and to invite you to consider it, moreover, not as an incoherent interlude between Gaius and Glanvil but as a sociological experiment instructive in itself. We see, as the barbarians did not, the whole panorama of forces, procedural and moral, arrayed against feud, and to some of them I shall presently draw attention. We note the development from the private feud-settlements of the Germans to public and royal arbitration and intervention,

¹ A lecture delivered in the John Rylands Library on Wednesday, the 12th of November 1958. I wish to thank Mr. Philip Grierson and my wife for reading the lecture in draft and for making several valuable suggestions.

² See, for example, Ernst Levy, *West Roman Vulgar Law, The Law of Property*, (1951) and *Weströmisches Vulgarrecht, das Obligationenrecht* (1956); J. F. Lemarignier, "Les actes de droit privé de Saint-Bertin au haut moyen âge. Survivances et déclin du droit romain dans la pratique franque", *Rev. Internat. des Droits de l'Antiquité*, vol. 5 (1950); J. Gaudemet, "Survivances romaines dans le droit de la monarchie franque du V^e au X^e siècle", *Revue d'histoire du droit*, vol. xxiii (1955).

³ *Deutsche Verfassungsgeschichte*, i (1880), 200.

⁴ The point is developed in J. M. Wallace-Hadrill and J. McManners, *France, Government and Society* (1957), pp. 36-60.

even if we do not always see the corollary, that the legal processes of the *Volksrechte* succeeded just because they derived from feud-processes and closely followed them. We note, too, the continuing pressure of the Church and of Late Roman legal tradition in favour of the abandonment of feud. None of this can be gainsaid. But the death of feud and the better things that replaced it I now leave aside to face the fact of its life. Allowing for all these pressures upon it, feud yet lived for centuries in Western Europe without frontal attack and without stigma. What, then, was its indispensable strength? What actually happened when feud threatened and broke out?

I mean to limit myself to the evidence of those who witnessed and described feuds that we can still read about; but before turning to them there are certain preliminary matters that you will expect me to clarify.

In the first place, it is not difficult to arrive at what, for these purposes, is a working definition of feud. We may call it, first, the threat of hostility between kins; then, the state of hostility between them; and finally, the satisfaction of their differences and a settlement on terms acceptable to both. The threat, the state and the settlement of that hostility constitute feud but do not necessarily mean bloodshed. Indeed, I would not be positive that a legal right to blood, however we understand it, should ever be assumed among the Franks without proof. There is no mention of such right in *Lex Salica*, and the famous rebuke of the *iudex loci* to the man who avenged his brother's death without leave points in another direction.¹ But of moral right there is no question. Feud is never a crime until it is made so, and cannot till then be studied within the context of criminal law. In brief, it is a way for the settlement of differences whether through violence or negotiation or both,² even though it would be vain to look for any such definition in the sources of the early Middle Ages. We must search for our feuds, incipient or flourishing,

¹ Gregory of Tours, *Vitae Patrum*, 8, 7 (*Monumenta Germaniae Historica, Scriptores Rerum Merovingicarum*), i (1884), 697.

² Professor D. Whitelock, *The Beginnings of English Society* (1952), p. 43, makes clear this intimate connection. She further thinks that in England the heavy expense of homicide-payment had much to do with the continuance of feud by fighting.

in a maze of terms that can mislead: the Frankish *faithu* latinized as *faidus*¹ may mean what we are after, or it may mean something different; feud may lurk behind *inimicus*, *hostis*, *vindicta*, *intentio*, *altercatio*, *bella civilia* or it may not. As an institution, feud remains undefined by its practitioners. If they help us to distinguish feud from any and every sporadic outbreak of violence they do so unwittingly. All vengeance is not feud, and all bloodshed is not bloodfeud. If we really wish to see bloodshed practised as a fine art, we cannot do better than turn to Byzantium, mistress of the West in this as in so much else.

Allow me, next, to define the limit of my treatment. Vendetta may be studied, even today, in almost any quarter of the globe, in Arabia or Africa, for instance, or nearer home among patriarchal societies in the mountains of Albania, Sicily, Sardinia and Corsica; and it is so studied by the sociologist.² We can learn from him and afterwards look with a new eye to the more particular study of feuding in medieval Europe, and paradoxically may find it easier not to use events of the tenth century to illustrate situations in the fifth, and not to think that Anglo-Saxon laws or Scandinavian sagas are applicable to the Frankish or the Gothic scene.³ Just here the great German legal historians came to grief, though it is easy to see why they did so. My concern is with the Franks of Gaul in the Merovingian age, and I shall resist the temptation to take as evidence the feuding

¹ It may, significantly, mean the injured party's share in composition. Cf. H. Brunner, *Deutsche Rechtsgeschichte*, i (1906), 231; *Lex Salica*, 35 (ed. K. A. Eckhardt, *Pactus Legis Salicae*, 65 *Titel-Text*, 1955); and J. M. Pardessus, *Diplomata*, ii (1849), no. 431, p. 229.

² I owe much to Max Gluckman's *Custom and Conflict in Africa* (1955). Margaret Hasluck, *The Unwritten Law in Albania* (1954) and I. Shapiro, "The Sin of Cain", *J. R. Anthropological Inst.*, 85 (1955) are suggestive.

³ The point is forcibly made by F. L. Ganshof, "L'Étranger dans la monarchie franque", *Recueils de la Société Jean Bodin*, vol. x, pt. 2 (1958), 8. This is not to say that the student of Frankish feuding can neglect the important general ideas contained, for example, in English writings on Anglo-Saxon feuds—e.g. in F. M. Stenton, *Anglo-Saxon England* (2nd. edn., 1947); F. Pollock and F. W. Maitland, *The History of English Law*, vol. ii (1895) and Maitland's *Collected Papers*, vol. i (1911); R. W. Chambers, *Beowulf, an Introduction* (1921); H. M. Chadwick, *The Heroic Age* (1926); F. Seebohm, *Tribal Custom in Anglo-Saxon Law* (1911); and B. S. Phillpotts, *Kindred and Clan* (1913). Nor can he overlook the excellent evidence of the feuds of the Lombards.

practices of the barbarian contemporaries of the Franks, apart from such as were intimately connected with them, like the Burgundians or the Visigoths; neither shall I call upon the practices of Carolingian Europe, where feud of a very different sort may be studied. My evidence is Frankish, and specifically literary; the evidence of the historians and the chroniclers and the writers of saints' *Lives*. Why should they have included their tales of feud? Was it as a warning to the curious or could they not resist a good story? Did they report the exceptional or the commonplace? Why is their evidence sometimes at variance with what the Frankish laws bid us believe?

To the Hun, Attila, there was nothing like a good feud: "quid viro forti suavius quam vindicta manu querere?"¹ He spoke thus for warriors far beyond, and more civilized far, than his own Hunnic warbands. All the barbarian invaders of the Empire loved a feud. Not even the learned Cassiodorus could suppose otherwise.² We may term it the classical feud of the migrating period, though, of course, it lasted longer; it was that kind of kin-hostility where there was killing in hot blood and with all publicity for the sake of honour, most particularly in avenging an act of treachery.³ This was the true vengeance, girt about with a magical symbolism that may have remained potent for much longer than we know. Hot blood was never to be overlooked; while in it a man and his kin might be excused almost anything, and no amount of teaching ever quite persuaded the medieval mind that it was wrong. It will crop up, in various forms, in my evidence.⁴ But it is only one

¹ Jordanes, *Getica*, ch. 39 (ed. Th. Mommsen, *M.G.H., Auct. Antiq.*, i, pt. I (1882), 110).

² *Variae*, bk. I, letter 38; *M.G.H., Auct. Antiq.* xii (1894), 36.

³ R. W. Chambers pointed out that an act of treachery made the acceptance of composition particularly difficult (*op. cit.* p. 278).

⁴ Cf. F. Dahn, "Fehdegang und Rechtsgang der Germanen", *Bausteine*, ii (1879), 80, 83, 106, 108; Brunner, *DRG.* i. 120, 222; and Julius Goebel, *Felony and Misdemeanor*, i (1937), 85. Goebel's misleading sub-title, "A study in the history of English criminal procedure", has caused this volume, which is largely concerned with Frankish procedure, to be somewhat overlooked on the continent. It attacks Brunner's theory of the Germanic "peace" and hence of outlawry while still regarding feud as "an interminable antiphony of violence". There is, however, an important review by Heinrich Mitteis, reprinted in his *Die Rechtsidee in der Geschichte* (1957). As concerns the study of feud, Goebel's

kind of feud, and there were many others (at least in the Merovingian era) that arose out of theft, cattle-rustling, accidental injury or mere misunderstanding. The tariffs of the *Volksrechte* warn us at a glance that homicide was but one among many injuries from which feud might spring. The facts hardly suggest that the Franks spent more than a small portion of their time defending their honour. Blood tends to cool. The interesting cases of feud are seldom clear-cut affairs of honour and betray, even then, the natural pulls inherent in feud-society towards settlement and composition. Fighting may be fun, but only a grievous injury or a series of misunderstandings will lead to the destruction of the man-power of a family, let alone of a kin. Composition, offering a natural escape, stretches back far beyond the tariffs of *Lex Salica* to composition in kind in the early Germanic period. The world, private and official, stood ready to arbitrate.

Of the pressures working against whatever traditional forms of feud the Franks brought to Gaul, one was the extreme complexity of Gallo-Frankish society. Already far advanced from the comparative simplicities of Tacitus's *Germania*, the Franks of the fifth and sixth centuries settled in a variety of ways upon the Gaulish countryside. We find them at home in abandoned Roman *villae*, at work in small or large groups upon upland ranches, mixing in varying proportions and over a long period in Gaulish or barbarian settlements other than Frankish.¹ How, in these circumstances, could the kin remain a coherent social force? Kindred must rapidly have become scattered over wide areas and the ties of blood within a single settlement become hopelessly intermixed. You could leave your kin and presumably join another;² and the claims of lordship

special merit is to have summarized the conclusions of a very important study by Franz Beyerle, *Das Entwicklungsproblem im germanischen Rechtsgang*, 1, *Sühne, Rache und Preisgabe in ihrer Beziehung zum Strafprozess der Volksrechte* (Heidelberg, 1915), published as vol. x, pt. 2, of *Deutschrechtliche Beiträge*.

¹ R. Latouche, *Les origines de l'économie occidentale* (1956), pp. 41 ff. summarizes recent work.

² *Lex Salica*, 60 (*De eum qui se de parentilla tollere vult*) and 46 (*De acfatmire*). See the remarks of Max Pappenheim, "Über künstliche Verwandtschaft im germanischen Rechte", *Zeitschrift der Savigny-Stiftung, Germ. Abt.* xxix (1908), 313, 320.

(already active in Tacitus's time) might well pull against the claims of kin.¹ How could the kin charged with responsibility for feud, whether the agnatic kin or the wider circle of blood-relations,² be mobilized for war except as a small *ad hoc* vengeance-group? So we arrive somewhere near the situation envisaged in another context by Professor Gluckman, where the mere elaboration and interdependence of kin-groups may ensure a kind of immobility. Common blood and propinquity will always make for settlement. This is not to imply that feud-war will not break out on a minor scale nor that the idea of fighting is abandoned. Far from it. The sanction of feud-war is the reality that lies behind every feud-settlement and agreement to pay and receive composition; but it is difficult to implement and not lightly to be entered upon, even when a man has a lord to uphold his quarrel or is himself a lord strong in dependents, whether or not of his blood. (One may suspect that in practice the assistance of kindred and of such dependents was often not clearly distinguishable.) The kin, especially such members as lived within easy reach, must often have been called upon to meet and act as judges and arbiters in family disputes that were none the less feud-disputes because unlikely to lead to bloodshed. They it was who agreed to pay, or to accept, the heavy price of blood, or to disown the offending kinsman; and other duties too were thrust upon them, beyond what the *Volksrechte* reveal.³ The Frankish kin was probably less often involved as a fighting force than as a composing one. From the mere nature of their settlement, it must be wide of the mark to conceive of the Franks being at all often engaged in major kin-warfare.

Against feud also stood the Church, its teaching and its practice opposed to bloodshed.⁴ There can be no doubt that

¹ I agree with T. H. Aston that "relatives and followers were never mutually exclusive categories" (*Trans. Roy. Hist. Soc.*, 5th series, viii (1958), 79). Nor must we overlook the added complexity of the godparental relationship; cf. Pappenheim, *op. cit.* 307, and J. P. Bodmer, *Der Krieger der Merowingerzeit und seine Welt* (1957), p. 40.

² Brunner, *DRG.* i., 112, 120.

³ See *Lex Salica*, 58 (*De chrenecruda*) and 62 (*De compositione homicidii*); *Formulae Salicae Bignonianae* 8, *Noticia de homicidio* (*M.G.H., Formulae* (1886), p. 230); *Pactus pro tenore pacis* 2 (*M.G.H., Capit. Regum Franc.* i. (1883), 4).

⁴ This is well expressed in Lot, Pfister and Ganshof, *Les destinées de l'empire en occident* (1940), p. 310. See also A. Michel, "Vengeance", *Dict. de Théol. Cath.*, xv, 2 (1950), cols. 2613-23.

the Frankish Church was for arbitration and composition; Gregory of Tours himself describes for us an occasion when he acted in person as arbitrator.¹ Such is the sense of the well-known words of Avitus on the subject,² the plea of St. Bonitus for *concordia*,³ St. Germanus on *inhonesta victoria*,⁴ the whole tenor of the fascinating *Liber Scintillarum* of Defensor of Ligugé,⁵ to say nothing of the Church's intimate connection with our earliest manuscripts of the *Volksrechte*. (We can associate some of these manuscripts with a known church or churchman, as for instance one fine collection with St. Gallen, or the ninth-century copy of the *Lex Baiuvariorum*, now in Munich,⁶ with Bishop Hitto of Freising.) But how will you get arbitration without the sanction of bloodshed? How, if a cleric, can you be sure of putting from your mind the claims of your own blood? One Frankish bishop at least, Badigisil of Le Mans, made no bones about this: "non ideo, quia clericus factus sum, et ultur iniuriarum mearum non ero?"⁷ He might, had he known it, have cited in his favour a letter from a pope to an Italian *Magister Militum*, instructing him to avenge the bearer for his brother's murder.⁸ More interesting, however, are the difficulties in which less bellicose clerics found themselves. How could they reconcile their views with that *ultio divina* that was their own main prop in a wicked world? Look through his writings for the view of Gregory of Tours on divine vengeance and you will find that he visualizes it as nothing less than God's own feud in support of his servants, who can have no other kin. God will avenge crimes specially heinous in the Church's eyes—parricide for example, crimes within the family generally and crimes involving all who lack natural protectors. The agent of vengeance may be God himself directly intervening to strike down the culprit (for instance, with sickness) or it may be a human agent, as the king. At all events, God's vengeance is of

¹ *Historiarum Libri*, ed. Krusch and Levison, *M.G.H., Script. Rer. Mero.* (1951), bk VII, ch. 47.

² *Hist. Lib.*, bk III, ch. 6.

³ *M.G.H., Script. Rer. Mero.* vi (1913), 121.

⁴ *M.G.H., Epist.* iii (*Epist. Mero. et Karo. Aevi*, i) (1892), p. 123.

⁵ Edited by Dom Henri Rochais in *Corpus Christianorum, Series Latina*, cxvii, pt. i (1957).

⁶ Clm. 19415.

⁷ Gregory, *Hist. Lib.*, bk. VIII, ch. 39.

⁸ *M.G.H., Epist.* iii, 696.

the same nature as that of any head of a family or warband. He strikes to kill, to avenge insult to himself, to his children or to his property. The Frankish churchmen cannot in any other way see *ultio divina* in a society dominated by the bloodfeud.¹ We may know that Romans xii, 19—"mihi vindicta, ego retribuam dicit Dominus"—has nothing to do with bloodfeud, but to the Franks and Gallo-Romans it was not so clear.² We must not, then, expect to find Gregory of Tours, brought up to bloodshed, protected by an avenging God and on at least one occasion more than indulgent towards the ferocious treachery of his hero Clovis,³ opposed to all bloodfeuds merely because they were bloody. His attitude and that of his contemporaries, constituting the attitude of his Church, is, in general, opposed to the sanction of bloodfeud but tends in practice, and for no shameful reason, to be equivocal. He is often opposed to bloodfeuds without seeing the need to state and maintain a case against bloodfeud.

Roman Law, on the other hand, had no need to be equivocal. It had had no truck with feud since the far-off days of the XII Tables.⁴ The Theodosian Code and its Visigothic derivatives take their stand on the personal responsibility of the criminal, the *auctor sceleris*;⁵ his kin should not suffer for him: "*ille solus culpavilis erit qui culpanda commiserit.*"⁶ The Burgundian

¹ Examples of the attitude of the Frankish Church to divine vengeance are: Gregory, *Hist. Lib.*, bk. I, chs. 2, 41; bk. II, ch. 10; bk. III, chs. 5, 28; bk. IV, ch. 20; bk. V, ch. 5; bk. VII, chs. 3, 29; bk. x, ch. 13; also *M.G.H., Script. Rer. Mero.* iv. 710, 715, 731; *ibid.* vi. 281, 377; *Vita Columbani*, ed. Krusch (1905), p. 213.

² Romans xii. 19 is in fact cited at the close of the account of how God protected St. Willibrord from the custodian of the idol on Walcheren (*Vita Willibrordi*, ch. 14; *M.G.H., Script. Rer. Mero.*, vii, 128).

³ *Hist. Lib.*, bk. II, ch. 42.

⁴ On the situation before the XII Tables, see David Daube, *The Defence of Superior Orders in Roman Law* (1956), pp. 19 ff. See footnote 1, p. 483. For a comparable Old Testament situation, cf. Sharipo, loc. cit. p. 36, where it is emphasized that Deuteronomy xxiv. 16 ("every man shall be put to death for his own sin") belongs to one of the later legal codes.

⁵ Apart altogether from Roman Law, the Germanic kindred shows some tendency to make the wrongdoer personally responsible, especially when faced with finding a heavy wergild.

⁶ *Lex Visig. Reccessvind.*, VII, *Antiqua* (ed. K. Zeumer, *Leges Visigothorum Antiquiores*, 1894, p. 180, who also cites 11 *Dig.* xlviii, 4—*extinguitur crimen mortalitate*).

and Merovingian kings were in varying degrees influenced by their legal advisers in this direction.¹ Burgundian Law in particular tends towards compromise ; it admits, for example, occasions when a kin might pursue a killer without, however, pursuing the killer's kin.² But even in Visigothic Spain, a stronghold of Vulgar Roman Law, King Wamba was quite clear that any killer was in the *potestas* of the injured kin.³ If the Visigoths and the Burgundians found difficulties in applying Roman practice among peoples otherwise inclined, we might well look for trouble with the Merovingians.

One question, therefore, on which we must search for light in the Frankish evidence, is the extent to which the Merovingian kings succumbed to these pressures and turned against feud. Some distinguished scholars have had no doubt that they succumbed very largely;⁴ but a different case could be argued. What, it might be asked, could the Frankish kings do with a disintegrating kin-system in which the individual more and more escaped from kin-responsibility and kin-protection? What active, legislative support could they lend to a situation where in practice, as Maitland saw in an English context, every new feud demanded an entirely fresh kin-grouping?⁵ The Merovingian ethos remained independent of, if not unaffected by, the teaching of Church and civilians ; it was, as we shall see, still right in Merovingian eyes to enter upon the process of feud, whether it was to lead through bloodshed or composition to ultimate satisfaction. Without the sanction of blood, composition would have stood a poor chance in a world lacking not simply a police-force but any concept of public order.⁶ It is easy to imagine that, with the recording of the *Volksrechte* and the publication of instruments like the *Decretio* of Childebert II,

¹ Cf. F. Olivier-Martin, *Histoire du droit français* (1948), p. 56.

² *Lex Burg.* ii. 7, *M.G.H., Leges, Sect. 1*, ii, pt. 1 (1892), 43 ; cf. *Lex Burg.* xviii, *ibid.* p. 56 ; and see the sensible interpretation of E. Levy, *Das Obligationenrecht*, p. 347.

³ Cf. Brunner, *Forschungen* (1894), p. 492. Cf. *Hist. Wambae*, ch. 9, *M.G.H., Script. Rer. Mero.* v., 508.

⁴ E.g. Olivier-Martin, *Histoire*, p. 127 ; Goebel, *Felony and Misdemeanor*, pp. 21, 27.

⁵ *History of English Law*, ii. 239.

⁶ Goebel, *op. cit.* pp. 39-43.

the *Pactus pro tenore pacis* and the documents of the formularies of Marculf and others, we have moved into a new world of royal authority. I would be the last to deny that the earlier Merovingians were extraordinarily powerful and much feared. But yet, when we come to inquire what it was that made the composition-tariffs of *Lex Salica* work and why wergilds and lesser compositions were in fact paid, the answer is not fear of local royal officials but fear of feud; or rather it is both. To be sure, the Merovingians have an interest in intervening in the course of feuds when possible and where they can see profit accruing to the fisc through fine or confiscation; the *fredum* was worth having; this is expressed procedurally;¹ but at what time in barbarian history would chieftains not have intervened in the feuds of their followers for similar reasons?² The Romans did much the same. No new principle was at stake. I detect no blow at the principle of feuding in the famous titles of King Chilperic's *Edictum*:³ namely (*tit.* 8) that the *malus homo* (that is, professional malefactor), who cannot make composition and whom his kin will not redeem, may be turned over to his accusers, and (*tit.* 10) that the *malus homo* who cannot redeem himself and is beyond the control of his kin may be slain by anyone without incurring risk of feud.⁴ Is King Childebert deliberately narrowing the function of feud when he forbids killing *sine causa* and decrees that such a killer shall neither make composition nor have it made for him, and that his *parentes* and *amici* shall suffer for it if they try to do so? Brunner thought he was;⁵ I wonder. At least it gave the king a chance to finish his title with a little Roman flourish: "iustum est ut qui novit occidere discat morire." On the other hand, we can cite passages that reveal the Merovingians actively defining and approving occasions of feud, for

¹ Goebel, *op. cit.* pp. 103 ff., 114.

² Cf. *Form. Marculfi*, i, 32 (*M.G.H., Formulae*, 1886, p. 62) insists, naturally enough, that no feud should follow when royal officials have intervened to exact penalties. But this does not seem to have helped Chrodoin in the story in Fredegar's Chronicle, bk. 111, ch. 58 (*M.G.H., Script. Rer. Mero.* vol. ii). See also Goebel, *op. cit.* p. 90.

³ *M.G.H., Capit. Regum Franc.* i (1883), 8-10.

⁴ See Goebel, *op. cit.* p. 53.

⁵ *DRG.* i. 329; also A. Halban-Blumenstock, "Königsschutz und Fehde", *Zeitsch. der Sav.-Stiftung, Germ. Abt.* xvii (1896), 74. Miss Phillpotts, *Kindred and Clan*, p. 195, seems to me to be seriously astray.

instance, by attempting to sort out the degrees of responsibility for taking vengeance within the kin.¹ As Goebel puts it, the Merovingians were concerned with harsh answers to instant questions: "What is to be done about professional crime? May offenders be executed? Can the fisc take their property?"² Groping for answers and grappling with problems that lay outside the kin (a case in point is murder as distinct from homicide), they now and again struck a glancing blow at feud; traces of such will be found scattered in their laws. But I do not see that this amounts to a deliberate attack upon the principle of feud.

It may be well to state that Gregory of Tours, from whose History much of our evidence of feud is drawn, was not interested in feud as such and he would have been surprised to hear that some historians have seen in his writings the picture of a society disintegrating through feud. Of one special, because unnatural, kind of feud he particularly disapproved, the civil wars between members of one kin, the Merovingians themselves; and in the prologue to his Fifth Book he exhorts them to slay their enemies, not each other. "Cavete bella civilia" he cries, meaning by this that specially heinous type of feud—heinous because self-destroying—the rising of *proximus in propinquam*;³ yet his own evidence shows that this very propinquity in blood was one of the factors that led his warring Merovingians towards settlement. They did not enjoy fighting one another. Let us look at some of Gregory's examples of feud within the royal kin or involving the royal kin.

We may take first a feud between the Merovingians and the royal Burgundian house, a feud brought about by a woman. Gregory gives it some prominence.⁴ The Merovingian queen Chrotechildis, by birth a Burgundian, urges her sons to avenge the deaths of her parents, not on the murderer, her uncle

¹ *Lex Salica*, 41, *add.* 2; *Lex Ribvaria*, 77 (ed. F. Beyerle and R. Buchner, 1954, p. 129); also Brunner, *DRG.* i. 226 and Beyerle, *Das Entwicklungsproblem*, p. 500.

² *Op. cit.* p. 62.

³ *Hist. Lib.*, bk. V, prol. Exile and confiscation were a characteristic Frankish reaction to the killing of near relatives (cf. Goebel, *op. cit.* p. 109).

⁴ *Hist. Lib.*, bk. III, ch. 6.

Gundobad, but on his sons, Sigismund and Godomar. In other words the Merovingian princes were being required by their mother to attack their second cousins. This they proceeded to do and, defeating the Burgundian princes, imprisoned one of them, perhaps with the intention of obtaining a heavy composition. It is only on a later occasion, after a second attack had become necessary, that the Merovingian Chlodomer decides to kill the imprisoned Sigismund and his family: they are all thrown down a well. There is more to the feud than this; but observe its features: two royal kins, related by marriage but distinct and separated by a considerable distance, show no hesitation in attacking one another, the one taking vengeance for blood on the second generation of the other. Yet there is something to suggest that complete and early submission by the Burgundians might have induced the Merovingian princes to accept a settlement on terms. But the Burgundians would not submit. Gregory himself has no adverse comment to make on the reason for the feud.¹ We must suppose that he thought it justifiable. What he disapproves of is the slaying in cold blood of the captive prince and family as an act rather of military prudence (to prevent attack in the rear) than of vengeance intended from the first. Chlodomer himself deserved to die by a ruse in the subsequent battle: his head was raised on a spear, so publicly demonstrating the Burgundian viewpoint in the feud.

Gregory has other cases of Merovingian feuds with princes outside the Frankish orbit. One, that between the Ripuarian Franks and the Thuringians, follows directly on the Burgundian feud.² The *iniuria* of which the Frankish king here complained was a breach of trust: it did not prevent his killing his Thuringian rival by a trick. Trickery, indeed, was a commonplace of Frankish feuding; it might happen at any stage of a feud short of the final agreement and particularly in the penultimate stages of arbitration or armistice; and nobody thought any the worse of it.³ An entire group of Merovingian feuds was waged

¹ Some historians look upon the story as essentially a myth. I do not know why.

² *Hist. Lib.*, bk. III, ch. 7 and 8.

³ Goebel, *op. cit.* p. 29: Beyerle, *op. cit.* pp. 117 ff.

with their southern neighbours and connections by marriage, the Visigoth kings.¹ We find King Childebert marching to Spain to avenge his sister, wife of the Arian Amalaric. She had sent him a bloodstained handkerchief in proof of the treatment she had suffered for her faith.² His motive in marching to kill Amalaric was not brotherly affection; it was duty; and duty normally did dictate such kin-action.³ But duty could be satisfied short of bloodshed; for, a little later, Gregory tells of the Merovingians sending to the Visigoth Theodohat for proper composition for the killing of their cousin, a lady who deserved her fate if anyone did; and in fear he paid them 50,000 *aurei*.⁴ Inevitably he had been threatened with destruction if he failed to pay; that was the sanction of the composition. Dalton long ago showed how inaccurate the story was in detail;⁵ and yet the point remained for Gregory's readers: the death of Theodohat's victim was shameful, feud was the only answer—and composition was perfectly in order.

An independent group of Merovingian-Visigoth feuds involve Gunthramn, Merovingian king of Burgundy. Gunthramn is a rich gift to the historian of feud. A prudent, calculating man, and ruler of the most romanized part of Frankish Gaul, one might well expect to find his face, if anybody's, set against feuding. Yet it is not. Gunthramn is all for feud and keenly aware of his duties as senior representative of his kin. Enraged at the death of his niece Ingundis and of her Visigoth husband, Hermenegild, he arranges to attack Spain, which leads his adversary to plan elaborate distractions for him in Gaul.⁶ But

¹ I leave out of account an allegedly apochryphal tale related in bk. II, ch. 58 of Fredegar's chronicle (*M.G.H., Script. Rer. Mero.*, ii. 82-3) of the feud between Clovis and the Visigoths, who came armed to parley with the Franks and were adjudged by Theodoric the Great, acting as arbiter, to owe as composition that amount of gold that would cover a mounted warrior with spear erect. Beyerle, *op. cit.* pp. 269, 313 ff., 328, 349, has emphasized the importance of the description for arbitration procedure for the feuds of Fredegar's own day. See also *Form. Marc.*, II. 16, 18 (*M.G.H. Form.*, pp. 85, 88) and *Form. Andecavenses*, 6, 42 (*ibid.* pp. 6, 19).

² *Hist. Lib.*, bk. III, ch. 10.

³ The point is made by J. P. Bodmer, *Der Krieger*, p. 20.

⁴ *Hist. Lib.*, bk. III, ch. 31.

⁵ *The History of the Franks by Gregory of Tours*, ii (1927), 513-14.

⁶ *Hist. Lib.*, bk. VIII, ch. 28.

Gunthramn's implacable hatred, it must be emphasized, had to do with avenging the death of Ingundis. He will not, he says, receive an embassy from the Visigoth Reccared "donec me Deus ulcisci iubeat de his inimicis",¹ neither should his other niece, Chlodosind, go as a bride to the land where her sister was slain—"I cannot tolerate it that my niece Ingundis should go un-avenged".² This he declares, although the Visigoths were ready to close the feud by giving the most solemn oath to make amends.³ The ramifications of this feud were substantial and indirectly involved the Eastern Emperors, in whose hands was the little son of the princess Ingundis. Letters were exchanged⁴ and there was some coming and going of ambassadors by way of imperial Africa. It was in Carthage that the ambassadors of King Childebert were slain in a brawl. The Emperor Maurice offered twelve men as compensation: the Franks might do as they liked with them, or alternatively the Emperor would redeem them at 300 *aurei* each. The offer was rejected: how did Childebert know that these men were the guilty men, or, come to that, even free men?⁵

Another, and more complicated, group of royal feuds are within the Merovingian dynasty. About some of them hangs that air of tragic necessity that in general was a theme of Germanic literature,⁶ as when a man cannot take vengeance in his own family, though more than once a Merovingian finds that he must pursue and kill a treacherous son.⁷ The most famous of them, involving the entire Merovingian house, sprang from the murder of the Visigothic princess Galswintha by her Merovingian husband,

¹ *Hist. Lib.*, bk. IX, ch. 16.

² *Hist. Lib.* bk. IX, ch. 20.

³ Cf. Beyerle, *op. cit.* pp. 349, 421.

⁴ *M.G.H., Epist.* iii. 149 ff. I treat with reservation the comments of P. Goubert, *Byzance avant l'Islam*, II, pt. 1 (1956), 95 ff. without however entirely accepting the reconstruction attempted by his critic, Walter Goffart, "Byzantine Policy in the West under Tiberius II and Maurice" (*Traditio*, vol. xiii, 1957).

⁵ *Hist. Lib.*, bk. X, ch. 4.

⁶ Cf. D. Whitelock, *Beginnings*, p. 39.

⁷ *Hist. Lib.*, bk. IV, ch. 20; bk. V, chs. 14, 18. On the technical sense of *hostis* and *inimicus* see Beyerle, *op. cit.* p. 223. The situation is rather different in *Beowulf*, lines 2435-2443, where a father laments his inability to avenge the death of one son, accidentally slain, upon another.

King Chilperic, allegedly at the instigation of his mistress Fredegundis. Traditions of polygamy died hard among the Merovingians, and the mistresses of Chilperic saw no reason to grant to the Visigothic princess the position of unique influence she demanded; so she died—quietly, and with the evident intention that her great dowry should remain intact in her husband's hands.¹ But Chilperic's royal brothers would have none of this and planned to seize Galswintha's dowry and to avenge her murder by deposing him. One of them, Sigebert, was the husband of Brunehildis, sister of the murdered woman; and but for this, and the undying hatred of Brunehildis for Fredegundis, it may be doubted whether the brothers would ever have taken much notice. What we have, then, is a fraternal feud contrived by wives and stretching over three generations. Of necessity it also involved the royal Visigoth house. Listen to the language of King Childebert, requiring Gunthramn to surrender Fredegundis to his vengeance: "Give up to me this murderer, who killed my aunt [Galswintha] and then my father [Sigebert] and my uncle [Chilperic] and cut down my cousins [Merovech and Clovis]."² Later the demand is repeated; Gunthramn must surrender this sorceress, this killer of kings, to vengeance.³ But he will not, because he is not convinced of the charges; further, she is the mother of a king—and that, to the Merovingians, meant rather more than being the wife of one.⁴ Uncommitted, yet drawn towards it, Gunthramn saw the hopeless tragedy of this feud; he speaks feelingly of the iniquitous custom of killing kings and declares his intention not merely of killing one of the murderers employed, but of pursuing the man's kindred "in nonam generationem"⁵—that is, to the ninth degree of relationship.⁶ He was determined to catch the murderer of his brother Chilperic. How, he asks Gregory of Tours, can he be counted a man if he fails to avenge that death within a year?⁷ The bishop retorts that Chilperic had thoroughly deserved his end

¹ *Hist. Lib.*, bk. IV, ch. 28. Fredegar, bk. III, ch. 60, says that she was suffocated. Venantius Fortunatus, *Carm.* vi. 5, does not mention murder.

² *Hist. Lib.*, bk. VII, ch. 7.

³ *Hist. Lib.*, bk. VII, ch. 14.

⁴ I agree with Bodmer, *Der Krieger*, p. 18. ⁵ *Hist. Lib.*, bk. VII, chs. 21, 29.

⁶ Cf. Brunner, *DRG.* i, 325.

⁷ *Hist. Lib.*, bk. VIII, ch. 5.

and this Gunthramn certainly knew without its affecting his view of his own duty. All this and much else springs from the murder of Galswintha. Who shall say that composition might not soon have been reached among the brothers had not their family in practice lived as three distinct families in three distinct realms? However that may be, one of the grimmest features of this Merovingian feud is the employment of hired assassins.¹ If it be argued that such should play no part in feud, it can be asked how otherwise two women were to prosecute a feud in which their menfolk (and above all Gunthramn, head of the family) were by no means always clear where duty lay, particularly when the matter of the dowry was not uppermost. The point is surely plain : it was the wrong kind of feud ; not feuding but feuding within the kin was what led to pointless bloodshed that stopped nothing and offered few of the normal opportunities for compromise and settlement, even if it did offer some abnormal ones. The end of the story is related by Gregory's continuator, Fredegar. To him we owe the unforgettable account² of the arrest of the old queen Brunehildis by Chlotar, her arraignment and condemnation for the deaths of ten Merovingian kings, and finally her horrible death under the hooves of an unbroken horse. Those present at this scene, and Fredegar himself, saw this as the final expiation of a long feud. Is it, perhaps, this expiation rather than "unitary rule" that lends an air of auspicious anticlimax to the subsequent reigns of Chlotar II and Dagobert?

Perhaps I have said enough of royal feud to make my point that, excepting the feud of Brunehildis with Fredegundis and others consequent upon it, there seemed, as a rule, nothing wrong about it to the participants and often not to Gregory. It would be profitable to pursue the course of later Merovingian feuds in the pages of Fredegar and to interpret the relations of Pippin III, first Carolingian king, with Chislemar³ and with Waiofar of Aquitaine⁴ in terms of family feuding. But in this matter let us leave the last word with Gregory. Towards the close of his History he describes the scene at Poitiers when a riotous princess,

¹ Cf. Beyerle, *op. cit.* p. 246.

³ *Chron. contin.*, ch. 4.

² *Chron.*, bk. IV, ch. 42.

⁴ *Chron. contin.*, chs. 41 ff.

another Chrotechildis, was brought to account. She stood at bay, begging that no violence be done her: "I am a queen", she says, "and a king's daughter, cousin of another king; take care, for the day may come when I shall take my revenge."¹ The blood-vengeance of a Merovingian, in a word, was to be feared; it could be pursued with great resources; composition might not seem attractive as it did with humbler folk (provided always that they were not asked to pay it). The royal kin, moreover, had a way of sticking together and upholding the feuds of its members against other kins, notably outside Frankish Gaul. Yet the forces making for settlement exist all the time, and are on occasion successful. The conscience that is shocked at feuding within the royal kin is not simply ecclesiastical: it is the conscience of a feuding society that rests, even while it disintegrates, on the idea of the unity of the kin.

A second and no less significant group of feuds we may classify as non-royal; in other words, they do not involve the Merovingians as principals, though they often do involve them as kings. In this group, if anywhere, evidence should be forthcoming of royal intention to suppress feud as an institution. I start, as before, with Gregory's contribution.

Two courtiers—*rhetorici*, what is more—fall out because of the arrogance of one of them, named Secundinus, towards the other, Asteriolus.² The king reconciles them, but a fresh *intentio* breaks out. This time the king makes a judgement, which strips Asteriolus of his honours and places him within the power of Secundinus. However, he is protected by the queen, and not till after her death is Secundinus able to claim his rights and kill him. But Asteriolus left a son who, growing up, made preparations to avenge his father—"coepit patris sui velle iniuriam vindicare". Secundinus thereupon fled in panic from one *villa* to another, and finally, seeing no escape, took his own life "ne in manus inimici conruerit". Gregory, relating this, makes no comment; he thought the story worth the telling but had no strong feelings about it. Yet to us it reveals an interesting fact: two families of courtiers, living their lives under the very nose of the king their lord, are able to pursue their

¹ *Hist. Lib.*, bk. X, ch. 15.

² *Hist. Lib.*, bk. III, ch. 33.

differences in feud without the king being able to stop them. First, they ignore the reconciliation he makes, and later, in the second generation, they flout his subsequent judgement by renewing the feud. Nor can Secundinus see any hope of royal protection against the vengeance of his victim's son. Hence he takes his own life. The king can do nothing to stop the feud; indeed, he does something to ensure its continuance. Did he really suppose that the son of the murdered man would hold his peace? It does not look to me as if the king's part in the matter was at all different from that of any other lord called upon to arbitrate between feuding dependents; he did what he could but the issue was one of blood and in the end passed beyond his power to control. Perhaps he let it pass without regret.

Another feud, having certain features in common with the feud of Secundinus, concerns two well-born families who fall out over a wife's repute.¹ The husband's kin go, as was customary, to her father, requiring him either to prove her innocence or to kill her. He decides to take an oath to her innocence and this is made in the presence of both kins in the church of St. Denis in Paris.² But the husband's kin declare this to be a perjury, whereupon swords are drawn and there is bloodshed before the altar although, as Gregory remarks, both kins were "*primi apud Chilpericum regem*". The matter was referred at once to the king, to whom both parties hastened; but he would have nothing to do with them and sent them back to the bishop. They then made composition with the bishop and were forgiven. That is, they were forgiven their riotous behaviour in church; but the feud remained. A few days later, the woman was summoned *ad iudicium* but strangled herself, so closing the matter. It may well be that she took her life on instructions from her father's kin, who by now knew her to be guilty. Whatever the *iudicium* to which she was summoned, one

¹ *Hist. Lib.*, bk. V, ch. 32.

² Beyerle, *op. cit.* pp. 417, 420, 470, discusses the place of the solemn oath in the settlements of feuds and the pronouncements of the *Volksrechte* on adultery. A good example of how a well-supported oath would carry conviction is *Hist. Lib.*, bk. VIII, ch. 9.

cannot but be struck by the limited nature of the king's intervention; there is no question, as Dahn points out,¹ of his punishing breach of the law or of the peace or the shedding of blood among those closely attached to his court. His mind is taken up with the act of sacrilege. The right and the duty of kin to clear or punish a member, man or woman, who has impugned its honour is not called in question by the king—nor, for the matter of that, by the church.

Other feuds involving women make the point with equal clarity, as, for example, when a well-born woman goes off with a priest, darkening the insult to her kin by dressing as a man to escape detection.² Her kin catches her and, “*ad ulciscendam humilitatem generis sui*”, burns her. Then, surprisingly, they accept composition of 20 *aurei* from the Bishop of Lisieux for the priest, who subsequently runs off with another woman whose husband's kin catch him and torture him, and would have killed him if he had not again been rescued by the Bishop. But the startling feature of the case is the reaction of Gregory of Tours. Does he think the Bishop was right to offer composition for the priest, and the kin to accept it? He does not: to his mind, it was the accursed thirst for gold that caused the first woman's kin to hold the priest to ransom till someone could be found to pay the composition. By implication we are to understand that the priest should have shared the fate of the woman he seduced. All the same, was it no more than the accursed thirst for gold? May it not have been that honour was satisfied with the woman's death and that her kin had no strong feelings about the priest? Wherever feelings are not strong, or are divided, there tends to emerge an inclination towards composition, if only it can be got; and this, it cannot be too strongly insisted, is by Merovingian times felt as part of the feuding process. It crops up in quite unexpected situations, as here, or when Childeric the Saxon paid composition to the sons of the criminal Avius, whom his men had killed in a brawl.³ Gregory is obviously surprised that he should have paid: “*composuit tamen*”; yet he did—and the sons accepted it.

¹ *Fehdegang*, pp. 99 ff. See also Brunner, *DRG.* i. 127.

² *Hist. Lib.*, bk. VI, ch. 36.

³ *Hist. Lib.*, bk. VII, ch. 3.

There were times, however, when a king would decisively intervene to break an incipient feud. Gregory recounts how a freeborn girl, carried off to the bed of the drunken duke Amalo, struck him with his own sword and he died, though not before he had had time to admonish his retainers that she had done nothing worthy of death.¹ This did not foreclose feud: that was a matter for the dead man's kin to decide; but it did give her a chance. The girl then fled to the king (not to her own kin, of whom nothing is said). Gregory says that the king was moved by pity to grant her her life and further to take her under his written protection against the dead man's kin. This does indeed foreclose feud; and Gregory makes it clear that the *verbum regis* and his *praeceptio* were, in this case, adequate protection. But why did the girl go straight to the king? And why did he protect her instead of leaving her to the protection of her kin? It sounds like a good case for composition; yet of this the king deliberately deprives the dead man's kin. Halban has argued² that the king simply felt that feud would be wrong and that in acting as he did he overstepped normal practice—and this even if she had no kin and thus a special claim to his protection. Goebel, too, has seen here an extraordinary and early instance of the power of the *verbum regis*.³ What neither has noticed is that her victim was a duke who would have come under the royal protection. Is not this why she flees straight to the duke's master and why his first act is to grant her what is forfeit, her life? Thereafter he can excuse her the consequences of feud too. In fact, of course, the girl had a very good case, with the victim's own evidence in her favour. Why should the injured kin have received compensation where the king was prepared to overlook his servant's murder? The king indeed forecloses a feud; but I cannot see that he acted in a way that could be interpreted as a blow at the principle of feud.

One last example and we shall have done with Gregory. He devotes a long chapter⁴ to the feud between Sichar and Austregisil; a feud as instructive as it is intricate. Its outline is as follows: the time is Christmas, and the setting is in the vicinity

¹ *Hist. Lib.*, bk. IX, ch. 27.

³ *Op. cit.* p. 50.

² *Königsschutz*, p. 71.

⁴ *Hist. Lib.*, bk. VII, ch. 47.

of Tours, Bishop Gregory's own see. It is entirely local to Tours, yet Gregory calls it *gravia bella civilia*, for all the world as if two kings at least were locked in mortal strife. Sichar, Austregisil and their friends (local landowners it seems) were giving a party in the village of Manthelan, when the local priest sent a servant to invite them to his house. One of them (presumably Austregisil or a connection) kills the servant, the party clearly having reached an advanced stage. Now Sichar was bound by ties of *amicitia* to the priest and went off to the church, of all places, to lie in wait for Austregisil. A fight ensued, Sichar finally bolting for home and leaving money, clothing and four wounded servants at the priest's house. Austregisil now burst into the house, killed the servants and carried off the goods. We next meet both parties appearing before a *iudicium civium*: it finds Austregisil guilty of homicide and theft. A few days later, *inito placito* (that is, after an arrangement had been reached whereby Sichar was to receive composition and forego further vengeance),¹ Sichar heard that the stolen goods were still in the hands of Austregisil's kinsman Auno, and others of his following; so Sichar renewed the feud by a night attack, when Austregisil and others were slain and much property taken. At this point, Bishop Gregory himself intervened by summoning both parties and, in conjunction with the local *iudex*, he advised them to come to an agreement. He says that he feared that the trouble might spread; sons of the Church were being lost; let the party that was in the wrong make composition; and, most remarkable of all, if he could not afford the composition (which by this time would have been ruinously heavy),² the Church would pay it. But the party of Austregisil, at this stage represented by Chramnesind, son of Auno, refused composition. Sichar now thought that he had better see the king; but on the way he had trouble with one of his slaves, who wounded him.

¹ See the comment of R. Buchner, *Gregor von Tours, Zehn Bücher Geschichten*, ii (n.d.), 154.

² G. Monod stresses this in his account of the feud, "Les aventures de Sichaire", *Revue Historique*, vol. xxxi (1886). See also Beyerle, *op. cit.* p. 523, who cites the gloss on *Lex Salica*, 58: "Lege, quae paganorum tempore observabant, deinceps numquam valeat quia per ipsam cecidit multorum potestas."

The news got about that he was dead. This was the signal for Chramnesind, “*commonitis parentibus et amicis*”, to lay waste Sichar’s property and drive off all his cattle. At this point, the count of the city intervened. The judgement was that Chramnesind, having refused composition and then renewed hostilities, should forfeit half the sum originally awarded him, and that Sichar should pay him the other half. The Church then paid the half-composition, as it had promised to do, and both parties swore the solemn oaths of the final settlement and gave *cartae securitatis*.¹ “*Et sic*”, says Gregory with a sigh of relief, “*altercatio terminum fecit.*” But he was wrong; the most interesting part was yet to come. Years later,² and students of Anglo-Saxon history will at once think of a parallel in the feud of Uhtred and Thurbrand,³ we find Sichar and Chramnesind fast friends. They are at dinner together. It crosses Sichar’s mind to remark jovially that Chramnesind ought to be very grateful to him for killing off his relatives and so endowing him with a fine composition, without which he would be penniless. Naturally the feud comes flooding back into Chramnesind’s mind and he thinks “*nisi ulciscor interitum parentum meorum amittere nomen viri debeo et mulier infirma vocare*”. So he dowses the lights, smashes in Sichar’s head, and flees to King Childebert; but not before he has hung his victim’s body on a fence and thus fulfilled the requirements of feud that the outcome of vengeance should be publicly displayed and not hidden.⁴ Sichar unfortunately had been a protégé of the queen, the formidable Brunechildis, and Chramnesind had reason to fear the worst. Eventually he was able to prove that he had slain his victim *super se*, which has been understood to mean “for his honour”⁵ or “of necessity”.⁶ It was a classic case of *homicidium se defendendo* and he got off.⁷ And that was indeed the end of the feud. Much has been written about it. Gál insists that the

¹ An example of such a *carta*, whereby a man, *intervenientes sacerdotes* and others, accepts a composition on behalf of his kin for the killing of his brother, is *Form. Marc.* II, 18. Cf. Beyerle, *op. cit.* p. 332.

² *Hist. Lib.*, bk. IX, ch. 19.

³ Symeon of Durham, *Opera* (Rolls Series), i. 218-19.

⁴ Cf. *Lex Salica*, 41 *add.* 2; *Lex Ribvaria*, 77. ⁵ Dalton, *op. cit.* ii. 388.

⁶ Buchner, *Gregor von Tours*, ii. 259. ⁷ Beyerle, *op. cit.* 497-8, 256, 353.

court proceedings have the air of a feud tribunal ;¹ Halban sees it as an irruption of royal authority into a feud beyond what the formularies state was customary ;² Brunner insists on detecting a clash between *Volksrecht* and *Königsrecht* ;³ Dahn, on the other hand, thinks that church and king intervene surprisingly little ;⁴ and Goebel equally stresses the feebleness of the intervention of public authority.⁵

And is not this, put another way, the point? Outraged kinship proves too strong for any pacification ; and that this was felt to be morally right is evidenced by the king's final award. But observe, too, the number of checks to bloodshed that are met with on the way. There stands the local court of arbitration, to say nothing of the count, the bishop and the king, ready to throw their weight into the scales on the side of composition and settlement. There is nothing clear-cut about it from start to finish ; the case drifts from blood to arbitration and back again without ever becoming what we would call legally clear. Royal intervention and court procedure are fluid ; the transition from one type of procedure to another is bewilderingly easy ; and this the *Volksrechte* and the formularies would hardly suggest. But they settled it in the end.

Lest it be thought that Gregory alone records the feuds of the Franks, let us turn, leaving him still far from exhausted, to Fredegar. First, the feud of Ermenfred with Chainulf.⁶ It is over in a few words. Ermenfred, son-in-law of the great Aega, kills Count Chainulf at a court held at Augers. In consequence, his landed possessions are savagely attacked by Chainulf's kin and many others, all with the express approval of Queen Nantechildis. Ermenfred seeks refuge in church at Reims and thus escapes the royal wrath. That is all ; it is a stray gleam that reveals a powerful and level-headed queen urging on an injured kin to feud. But Fredegar has a much better feud, that between Flaochad and Willebad.⁷ Nantechildis again, acting as regent, appoints the Frank Flaochad to be mayor of the

¹ *Die Prozessbeilegung nach den fränkischen Urkunden des VII-X Jahrhunderts* (Gierke's *Untersuchungen zur deutschen Staats-und Rechtsgeschichte*, vol. 102, 1910), p. 18.

² *Königsschutz*, p. 73.

³ *DRG.* i. 281.

⁴ *Fehdegang*, pp. 90, 99.

⁵ *Op. cit.* p. 22.

⁶ *Chron.* bk. IV, ch. 83.

⁷ *Chron.*, bk. IV, chs. 89, 90.

palace in Burgundy—a strongminded if imprudent decision. On his first progress through Burgundy, the new mayor came upon the patrician Willebad; and he discovered, says Fredegar, an old hatred that had long lain hidden in his heart. He planned to kill him. For his part, Willebad lost no chance of belittling Flaochad. We next move to a Burgundian court held at Chalon. Willebad arrives with a great following. Flaochad plans an attempt on his life, which is foiled; instead, he marches out of his *palatium* to fight him. Amalbert, Flaochad's brother, interposes to pacify them. Flaochad now calls on the new king, Clovis, to help him. Willebad is summoned to appear before the king at Autun and arrives with a big following, well knowing that Flaochad, Amalbert and others intend to set upon him. The king tries in vain to entice the victim within the city walls; instead, his enemies again have to march out against him. The fight is described vividly. It seems to have been something of a family engagement, with most people sitting round as spectators. Berthar, a supporter of Flaochad, is narrowly saved from death by his son Chaubedo. Willebad is killed. Eleven days later, apparently before the feud had entered a further phase, Flaochad died of a fever. Fredegar here sees divine judgement. Both Flaochad and Willebad were robbers and tyrants; what is more, they had repeatedly sworn friendship on holy relics—that is, had solemnly agreed to terminate feud. It is an interesting scene described, one might think, by an eyewitness: the opponents, typical barbarian warriors quarrelling about we know not what, backed by their kins and their retainers, are each quite ready to make an end of the other by trickery. We are given, too, a straight hint that they had patched up the feud more than once. It ends in a skirmish under the walls of Autun, a skirmish that has something of the flavour of a duel, by which feuds were on occasion terminated.¹ Or rather, it ends in God's judgement on the survivor. Nothing is said of the course of law as it affects the quarrel of such important men; and the king, whether or not present at the final scene, made it possible, even if, a boy, the mouthpiece of others.

To work through the seven volumes of the *Scriptores Rerum*

¹ E.g. Fredegar, *Chron.* bk. IV, chs. 51, 71. Beyerle, *op. cit.* pp. 413 ff.

Merovingicarum is to be made aware that feuds are like volcanoes. A few are in eruption, others are extinct, but most are content to rumble now and again and leave us guessing. Every so often we pass across the edge of a quarrel that, if only the writer had followed it up, would have turned out to be feud. The language of feud and its assumptions lie in the minds of the Frankish chroniclers and hagiographers. Consider the curious account in the much-misrepresented *Vita Dagoberti* of how the sons of Sadregisil failed to obtain their heritage through not having avenged their father's murder;¹ or how the author of the *Vita Anstrudis* prefers not to identify the family that murdered the only brother of Anstrudis, since she sought no vengeance, although they attacked her too: "quorum nomina et stirpem dicere iniuriam esse putamus";² or again, how Ulfus, tortured as he thought through the agency of St. Germanus of Paris, flings his sword-belt at the bishop's feet with the cry "my life will be required of you by the king—and by my kin!"³ It is the same in the story of St. Léger⁴ and of many another Frankish figure whom it would be pointless to enumerate. None of these writers saw feud steadily giving ground to other and less bloodthirsty processes of law sponsored by enlightened kings.

We have come to the brink of the Carolingian age, the age of Charles Martel and St. Boniface. If a new day dawned in the history of feuding, it was concealed from the continuators of Fredegar and the compiler of the *Liber Historiae Francorum*, and concealed too, from Archbishop Hincmar as he looked back

¹ *M.G.H., Script. Rer. Mero.* ii, 413-14. Krusch here cites *Lex Romana Visigoth. Paul.* iii. 7, 1 (ed. Haenel, p. 384): "quicumque a familia sua occisus fuerit, hereditas illius ab herede adiri non potest nisi prius de familia quaestio fuerit ventilata et mors occisi fuerit vindicata", where, as my colleague, Dr. Arnold Ehrhardt, points out to me, the Roman sense of *familia* should preclude any idea of feud. In Mr. Grierson's view, the Roman state would first have intervened where a family-killing was concerned precisely because feud could not operate effectively; outraged public opinion may have demanded it. Later, a legal action was provided. Finally, the State took over cognizance of homicide itself.

² *M.G.H., Script. Rer. Mero.* vi, 69-70.

³ *M.G.H., Script. Rer. Mero.* vii., 385.

⁴ *M.G.H., Script. Rer. Mero.* vol. v.

from the vantage point of the next century.¹ Why did St. Boniface become doubtful about the propriety of regarding Gregory of Utrecht as a likely successor?² Because, it seemed, Gregory might become involved in feud, his brother apparently having killed the uncle of the *Dux Francorum*; and nobody knew how the *discordia* would end. The *Dux* might decide to avenge his uncle's death fairly widely on Gregory's family. We may assume that this did not, in fact, happen; but the career of Gregory of Utrecht might have been very different had it not been for the threat overhanging his kin at a critical moment. The Mainz version of the *Life* of St. Boniface³ affords a sudden insight into the view of feud held by one of the most powerful Frankish dynasties of the Rhineland. Bishop Gerold of Mainz is killed in a skirmish with the Saxons. His son and successor, Gewilib, does not consider this an unavoidable accident of battle. Instead, he makes careful inquiries to discover who actually killed his father, and he succeeds. In due course, while on an expedition against the Saxons with either Charles Martel or Carloman, he seeks out his victim and invites him to meet him in the River Weser to discuss terms.⁴ And there Gewilib kills him, with the words "*accipe quo patrem vindico ferrum!*" The writer goes on to say that neither the king nor the nobles considered that Gewilib had done anything blameworthy in avenging his father thus, though he (the writer) clearly did. "*Rudi populo rudis adhuc presul*" is his epitaph for Gewilib, and it sounds well enough; but the great dynasts of the Rhineland would not have thought so, and Gewilib's Carolingian overlord did not think so.

I am not now concerned to consider how far, if at all, the Frankish outlook on feud was modified by Charlemagne. Nobody believes that he was particularly successful; the question is simply what his intentions were.⁵ Nor, again, must we be

¹ *Vita Remegii, praef.*, M.G.H., *Script. Rer. Mero.* iii, 251.

² *S. Bonifatii et Lullii Epistolae*, ed. M. Tangl (2nd edn., 1955), no. 50, p. 83.

³ Ed. W. Levison, *Vitae S. Bonifatii* (*Script. Rer. Germ. in usum schol.*, 1905), pp. 91-2. See E. Ewig, "*Milo et eiusmodi similes*", *Sankt Bonifatius Gedenkgabe* (1954).

⁴ I understand *sermonicari* in some such technical sense.

⁵ H. Fichtenau, *Das karolingische Imperium* (1949), p. 146 (Munz's trans.,

deceived by developments in court procedure (for example, in the *jurati* being summoned by a judge instead of by the parties to a feud) that tended to strengthen royal resistance to private feud-procedures without necessarily betraying a change of heart.¹ Charlemagne's position, as revealed in his capitularies, may be variously interpreted.² If the *Admonitio Generalis*³ be taken as an indication of policy, then it may be that Charlemagne, viewing his kingly rôle in the light of an Augustinian *pax*, saw feuding as a positive evil and, further, as eminently undesirable by reason of its private nature.⁴ But even his friend Alcuin, we must remember, did not always see things thus.⁵ What I feel sure Charlemagne never experienced was a distaste for the bloodshed of the process. Royal justice could be savager than feud. There may, then, be a positive change of outlook here, such as no Merovingian evidence can plainly be seen to bear traces of; at once the culmination of a process of practical delimiting of feud that was centuries old, and a special development of the late eighth century; feuding in the Carolingian world nonetheless had a long future before it.

What I have been attempting to express is a view of the feuding of the Frankish age that is the reverse of clear-cut—and this because I find no evidence that contemporaries saw it otherwise. To legal historians, feud dies a slow, inevitable death, yielding to the superior equity of royal justice; chaos and bloodshed give place to good order because they must. I see the matter otherwise: feud, as a means of obtaining redress, is already a various, elaborate procedure by the time we first meet it in

The Carolingian Empire, p. 138) notes the flourishing of feud in the Carolingian age and sees no general prohibition; Goebel, *op. cit.* p. 26, thinks that the Carolingians did curb feud to some extent, and used their power to enforce final concords (p. 33). See also Olivier-Martin, *Histoire*, p. 82.

¹ Beyerle, *op. cit.* p. 439; cf. also 319.

² Brunner, *DRG.* i. 329, 410, discusses the evidence.

³ *M.G.H., Capit.* i. 59, esp. §§ 66, 67. Cf. F. L. Ganshof, "Charlemagne", *Speculum*, 24 (1949), 520 ff.

⁴ E. Ewig, "Zum christlichen Königsgedanken im Frühmittelalter", *Das Königtum*, (1956), p. 63. Goebel, *op. cit.* p. 94, summarizes the evidence for an articulate penal theory, aimed at the suppression of wickedness, in Charlemagne's legislation.

⁵ *M.G.H., Epist.* iv. 376.

barbarian sources, long since linked with the payment of compositions, in kind or money; the two are inseparable. Records of feud repeatedly betray the drift from fighting to composition, the vagueness of the line separating them. Always it is touch-and-go what will happen; it will depend on what the kins think, how extensively they or their followings are mobilizable, how rich they are or how ready to pay or receive payment, how much the bishop or the king feels disposed to intervene. The royal position as expressed in legislation is not as a rule clear; and, when it is, it does not always correspond to practice. Kings may sometimes have judged feuding proper to their immediate followers when they would have disallowed it to a wider circle. Royal justice and the local courts are still far too haphazard in function and fluid in procedure to offer a clear alternative to feud. They are more concerned with compromises than with principles.¹ What, in fact, we do find is the movement of men and their troubles between the two. I agree with Goebel that the process of composition "remained essentially an alternative rather than a successor to settlement by violence"² though I would add that the reality of the bloodier alternative was the sanction that made composition possible at any stage. Except generally where honour was obviously involved, kins and families would find reasons and excuses to look to composition first, whether of their own making or under the protection of the courts. Their efforts might break down and often did; and so might the efforts of the courts. There is no strong and continuous royal pressure against the principle of feud, as I see it. There is no "Kampf gegen die Fehde".³ Even the pressure of the Church should be subject to most careful interpretation. Feuds that wiped out whole kins I do not believe were ever common.⁴

¹ The point is well expressed in Lot, Pfister and Ganshof, *op. cit.* p. 310: the spirit of the times showed "l'horreur de l'arrêt qui tranche comme un couperet".

² *Op. cit.* p. 38. See also Beyerle, *op. cit.* p. 261.

³ As Beyerle holds, *op. cit.* p. 264.

⁴ Beyerle, *op. cit.* p. 523 cites *Hist. Lib.* bk. VII, ch. 47, but this does not show that Gregory thought such feuds common. All the narrative evidence points to the difficulty of enlisting the feud-service of more than the closest kin or a very restricted *ad hoc* force.

Feuding in the sense of incessant private warfare, is a myth ; feuding in the sense of very widespread and frequent procedures to reach composition-settlements necessarily hovering on the edge of bloodshed, is not. The marvel of early medieval society is not war but peace.