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began to swing back towards stabilization, we may deprecate this haste that brought disaster. It was perhaps not impossible, if the Gracchi had stepped into their father's place in the councils of the Senate, that their energy and vision, strengthening and broadening the policy of reconstruction, would have achieved lasting results for the imperial rise of Rome. At least, our examination of the preceding seventy-five years shows the traditional strength as well as the new weakness of the Senate, and we may approach the Gracchan problems with better understanding of the senatorial case.144 The development of the subject lies in further study of the senatorial groups throughout the century to this point where the balance is so precarious that groups may sway the issue of government and a pair of strong tribunes determine the fate of Rome and Italy.145

144 Compare Cobban's study of the position in Sultan times: Senate and Provinces (78–49 B.C.).
imposed upon them. They were subjected to the jurisdiction of the mitra, just as were the counts and the holders of immunities, who were also in a particularly close relationship of dependence on the king. Like the counts and the bishops and abbots, whom Charles always regarded as public officials, they were compelled to pay additional levies and contributions on the occasion of any public calamity. They had the same rights of free lodging in the winter as had other royal officers when engaged on the king’s service, and for the same reason. Like the counts, centenarii, and palatine officers (ministriales), who also were in a directly dependent position on the king, they had to appear before his tribunal and not before the ordinary public courts if they should be accused of a breach of the royal monopoly of hunting rights in his forests.

The royal vassals were employed in any and every branch of the king’s service. Like the counts and other magnates, they acted as assessors in the palatine court. They were entrusted, as were the counts, with the duty of carrying out royal acts, such, for instance, as the grant

5 That is to say, the word honor, as used when speaking of the royal vassals, did not indicate a public function of any kind. This can be seen by comparing cap. ix (fornum communis) of the Capitulare of Hrastal of 779 (A. Beretti, Capitulatia regnum Francorum, t. 1, Hanover, 1888, no. 20) with cap. xxxiv of the Capitulare nisii generalis of 802 (ibid. no. 33). The first of these texts runs as follows: "Ut latrones de infra comitatu se dimittant, et quando honor perdit; similiter et vassus non tollit, si hoc non admisit, beneficium et honor perdit;" the second: "Si quis autem prehenderit sive diurum, qui post hoc in domo sua secum mulieres extra canonicam licentiam habere presumerit, honoram simul et hereditatem privetur usque ad nostram presentiam." See also cap. ix of the Capitulare nisii generalis of 802 (ibid. no. 33) on the date, cf. C. De Clercq, La législation religieuse francique du Cluny à Charlemagne, Louvain, 1936, pp. 217-220, cap. x of the Capitulare Italicum of Pepin of 810-10 (ibid. no. 101); on the date, cf. C. De Clercq, op. cit., pp. 28-19, cap. x of the Divitio Imperii of 817 (ibid. no. 130), and cap. xiv of the admonitio ad omnes regni ordinem of 823-5 (ibid. no. 150).

6 Capit. Herit. cap. xxii (ibid. no. 20): "Si comis in suo ministerio justitias non fecerit, misso nostro de sua consone faciat usque dum justitiae ibidem factae fuerint; et si vassus noster justitiam non fecerit, tune et enes misiat ad ipsum cas sa sodavit et de suo vivente quaecumque institutum facti."
of an estate to an abbey. They might be appointed to act as assessors in courts held by missi dominici. They might even be, and in practice often were, employed as missi dominici themselves. This was a function fulfilled chiefly, at least up to 802, by those vassi who were in permanent residence at the Palace.

Although we have no precise information regarding the number of these royal vassals, the frequency and the fashion with which they are mentioned in the capitularies indicates clearly that it must have been considerable, and certainly more considerable in the reign of Charles than in that of Pepin. In every part of the kingdom they must have formed groups of trustworthy persons on whose support the king could rely. They were the more necessary since the normal machinery of administration, consisting of counts and inferior officials, was numerically quite inadequate. Particularly in the non-Frankish areas conquered by Charlemagne and his father, such as Aquitaine, Italy and Bavaria, was the number of royal vassals very large. Of all the subjects—

... (text continues)

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fideles22—of the king, the vassi dominici were those who most clearly deserved this title.24

Amongst the royal vassals certain groups can be distinguished. The clearest division is that between those whom the texts term casati, those who have received a benefice from the king, and the non casati, those who have not. The distinction is made already at the beginning of Charles’s reign in the Capitulary of Hesortal, and there is nothing to suggest that at that moment the position of vassus dominicus casatus was a more usual one than that of vassus non casatus.23 The latter class consisted of those who formed the immediate entourage of the king, living normally at court but frequently employed for special missions, such as the tours of inspection of the administration. They were maintained directly by the king, and their incomes were subject to his discretion. They were regarded by contemporaries as less favourably situated than the vassi casati, who were in a much more enviable position.20 This was certainly their own sentiment, and towards the end of the reign it appears that a royal vassal who had satisfactorily fulfilled his duties could always look forward to the grant of a benefice in some part of the Empire. Once he had received a benefice, he would take up his residence on it; it was only rarely that a vassus casatus continued to work in the Palace.27 Many of the vassi casati, unlike the non casati, must have been quite wealthy persons; some of them already possessed private...

22 Fideles has under Charlemagne only the general meaning of “subject”, a person bound to loyalty to the king and observing this loyalty. This can easily be seen by examining a series of royal diplomas, which describe many people whom there is not the slightest reason to suppose were bound to the king by ties of vassalage as fideles; see Mühlbacher, op. cit. 1, nos. 172 (of 791), 181 (of 797), 187 (of 799), 194 (of 785–800), 205 (of 807), 210 (of 809), 212 (of 811), 213 (of 811), 216 (of 812). In Italy we hear of fideles notis distinguishers (e.g. Mühlbacher, op. cit. no. 112, dated 776), but it is very easy to be more charged with some particular mission; cf. Lefèbvre, op. cit. pp. 208–300.

23 It often happens, of course, that the fideles of the texts were in fact royal vassals, but this we only know through some special mention in the text, as, for example, from the fact that they are specified as fideles holding benefices from the king; cf. cap. xvi of the Capitulare missorium of Nijmegen of 806, cap. ix of the Capitulare missorium de exercitu promovendo of 808, cap. xx of the Capitulare of Aachen of 822–13 (Boretti, Capitulare, t. i, nos. 46, 50 and 77; on the date of the last, see De Clercq, op. cit. pp. 217–18). In the absence of data it is very difficult to say what proportion of the fideles in the latter part of the ninth and even more in the tenth century came simply to mean “vassal”.

24 In cap. ix (forma communitis) of the Capitulare missorium of 806, cap. xx of the Capitulare of Aachen of 822–13 (Boretti, Capitulare, t. i, nos. 46, 50 and 77; on the date of the last, see De Clercq, op. cit. pp. 217–18). In the absence of data it is very difficult to say what proportion of the fideles in the latter part of the ninth and even more in the tenth century came simply to mean “vassal”. In the absence of data it is very difficult to say what proportion of the fideles in the latter part of the ninth and even more in the tenth century came simply to mean “vassal”.

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sources of income, and the aggregate revenues from their benefices, their precarii, and their alodial property must often have been large. But we have very little information as to the way in which the royal vassals, whether invested or not with public offices, were provided with benefices—or in the south of Gaul were rewarded by means of the system known as apriro.

Looked at from the purely legal point of view, the status of a royal vassal was essentially the same as that of the vassal of any other lord. Royal vassalage was simply a particular type of vassalage, but it differed from other types by virtue of the high rank and honour accorded to the vassals of the king. This can best be seen by comparing their position with that of non-royal vassals. The instructions given to the missi in

Cf. cap. vi of the Beneficium missorum Agitatoreum de 789 (ibid. no. 43); "Quo modo illi beneficiar um habent condictus provident vel suos proprie", and cap. x of the Capitulorum missorum specialia de 802 (ibid. no. 34); "De illis hominibus qui nostra beneficia habent distracta et alodes eorum restauratae..."

The precario was a particular form of tenure distinct from ordinary domanial tenure (manum). It was Roman in origin, being styled precario in Roman legal texts. In the sixth, seventh and eighth centuries it appears as a grant of lands either revocable ad autum or, as became more and more the custom, made for life. It might either involve the payment of a census, generally of a nominal character, or even be free; the modesty of the payments it entailed perhaps explains the term beneficium sometimes applied to it. There were several types of precario, but it is unnecessary to give the details here, because the characteristics of the institution were developed and altered in the course of the eighth and ninth centuries, and its essential character remained the same. On precario from the sixth to the eighth centuries, cf. E. Lesse, op. cit. t. i. 1910, pp. 201-209.

Cf. the text of the Capitulorum episcoporum de 769-800 cited above, p. 149, n. 9.

Cf. however a charter of Ecktersbach of 773-84 (Mühlbacher, op. cit. t. 1, no. 183, c. Wampach, Geschichte der Grundherrschaft Ecktersbach im Frühmittelalter, t. ii. Quellen, 2. Heft, Münster in Westfalen, 1930, no. 91); "...de manum qui Wigardius et Augustior per nos beneficium tenuerunt", and another of the same abbeys of 777-97 (Mühlbacher, op. cit. no. 185, Wampach, op. cit. no. 93); "...villam nostram Quiricus Duldendorph... quam Genuards vasso nostro usque nunc per beneficium nostrum tenuei"

On the benefices granted to counts, see p. 791 n. 21.

The apriro, which was ratified by a royal charter, conferred on those who enjoyed it the full powers of a landed proprietor over the soil, but these powers came to an end on the death of the heir (Herrschaft, or in this case Thuriswine), and the title could be terminated in case of infidelity; cf. Brunner-von Schwerin, Deutsche Reichsgeschichte, t. 11 (Munich and Leipzig, 1928), pp. 346-8. An excellent example of this type of grant is that of a nobilis John, who, after becoming a vassal of Charlemagne, received in 795 a grant of property, in the pagus of Narbonne, of which he had made an apriro: "...iudicibus nostris se commendavit... etc. petivit nobis... ut ipsum villarem... concederemus illos nostros... quantum illis cum hominibus suis... occuparet vel occuparet vel de honore traczer... vel apriro ficerit" (Mühlbacher, op. cit. t. 1, no. 179). After the death of Charlemagne, John commended himself to Louis the Pious and obtained from him a grant of the property he had acquired by apriro (diploma of Louis of 815 in Bouveil, Recueil des historiens des Gaules et de la France, t. vi, p. 472).

These non-royal vassals, even non-royal vassi causae, are a comparatively ancient institution; cf. my, "Note sur les origines du benefice avec la vassallie" (cited above, p. 171, n. 3). Bötticher (op. cit. p. 123) is wrong in assuming that cap. xii (forma communis) of the Capitulorum of Hierstal of 779 proves that churches and abbots now had also their own vassals. The second part of the phrase in question

789, for example, regarding the exaction of a general oath of fealty, make a clear distinction between the rank of the royal and the non-royal vassal... The royal vassals take the oath in the same manner as the bishops, abbots, counts, "vidames", archdecons, and canons, who are all grouped together as forming the most important elements in the state and society. The vassals of other lords are grouped with the rest of the inhabitants of each county; they are amongst the vulgum pecus.

It is worthy of note that amongst the non-royal vassals are included a certain number of serfs. This indicates clearly that the status of a private vassal was a relatively humble one, a conclusion which is reinforced by an examination of the very limited number of circumstances in which a vassal could unilaterally denounced the agreement that bound him to his lord... His position can have been little better than that of a servant liable to be punished and dishonoured by his master.

("Et sit discretio inter precarios de verbo nostro facias et inter eas quae sponte voluntate de ipso rebus ecclesiasticis faciant"); Boretius, Capitulorum, t. t. no. 20) deals with precarios freely granted by churches, but there is nothing to prove that these were granted to their vassals.

34 Boretius, op. cit. no. 25; on the date, see De Clercq, op. cit. p. 179.

35 Cap. xxvi. Quo modo illum sacramentum juramentum eum debeat ab episcopis et abbatis committantur. "Contra villam regis debes dominum tuo vere reddere, ut de ipso nullum haeresis vel maculæ sit " (Mühlbacher, op. cit. t. 1, no. 114); the benefices are all those in some personal relationship of dependence towards the bishops, (abbe), abbots, counts and other persons, so that the word homines is inclusive of not only vassi, but of many other persons besides.

Cap. xxvii, the passage reading "...addivi serv. nobile possumt", the employment of serfs and noble free tenants is not unknown in the reign of Charlemagne. The king himself sometimes made use of them, though the practice was disapproved of by contemporaries, or at all events by the clergy. Adversa, in the Miracula Sancti Benediti, 1, 18 (ed. de Cessart, Paris, 1868) describes how the occupation and organization of Italy after the conquest absorbed all the available elements of the Frankish aristocracy, and how in consequence the king "quibaniam servorum suorum, siue debito sublevavit, curam tradidit regni; atque in primis Rohemum, Aurelianisium comitem preceptum, Buitigenensis Sturianum, Arvensis Bermundunum, aliquem et eum servum, lobe als propepsus". Saint-Benoit-sur-Loire had much to complain of in the violent acts of its count Raho; Adversa explains them "ut eius debitos exspectaverat".

"Quod nullus seniorem suum dimittat postquam ab eo accipitrem valente solido uno, excepto si cum vult occidere aut cum baculo cedere vel vexum aut filiam maculare seu hereditatem ei tollere". There is a similar provision in a fragment published by Boretius (op. cit. no. 20) and B. v. H. VIII. Cap. xxxvii of the Capitulorum Priscorum, "Si quis seniorem suum dimittit vel socium et ab eo accipitrem valente solido uno, excepto si cum vult occidere aut cum baculo cedere vel vexum aut filiam maculare seu hereditatem ei tollere".
Even amongst the private vassals various classes can be distinguished. There were some vassals who were supported directly by their lord, so immediately dependent on him that even their arms belonged to him and were kept in his custody. Others, who, once they had received benefices, resided on them and supported themselves from their revenues, found themselves much more independent and no doubt lived much easier lives. Often the vassals were strangers to the regions capitulio si senior cum iustis in servitio redigere voluerint; sequiendo capitulio si vita eius conaniassen; tertio capitulio si vassali sui uxorem adduxerant; quartu capitulio si visignato gladio super cum occidere voluntarie occurrerent. Vexat tamquam capitulio si senior vassali sui defectionem fuerat potest postquam ipsum manus sui in eius consilium venissent et tecum vassali cum dimittere. Qualecumque de ipsis quinque capitulis senior contra vassalem suam perpratet, tecum vassali cum dimittere.

28 The humble position of these non caesiis appears also from the fact that they were not allowed to leave their master once they had received from him the equivalent of one solido for their maintenance. One is reminded of the poor man who entered into a bond of vassalage because he had nothing with which to clothe or feed himself and who is mentioned in Formula 43 of the collection of Tours (Zummi, Formulæ Pasticarum et Carolinæ atque, Hannover, 1836, p. 158): this formula should probably be dated from the beginning of the Carolingian period. Cf. also cap. x of the Capitulare of Boeoticen of 851 (Besservic, Capitolariæ, t. i, no. 74): "Constitutum est ut nullus episcopus aut abbatis ab iis quosque eis ut nostris capiteiis eiusdem religiosi ut nostris permanseret, nisi talis tamquam vassalis suus. Et si evenisset ut in eis librent eodem signo plures duas hactenus habeam quod ad homines ecclesiastici ecclesiam ecclesiasticum habuerit, tunc ipsum idem regio ecclesiasticus iteraverit, quod de his facie debetur.

29 Codex diplomaticus Poelensis (Kassel, 1850), no. 83: a donation in 785 by a private person of property in Alaise, including: "quantamque in ipsa marcia honum nos Batirico conditui in beneficio cum omni adiacentia, ad ipsum beneficium pertinet, toatum et integrum, in ipsa marcia habitatione sua unum ipsa in hactenus habuit." P. J. Laemmel, Urkundenbuch f. die Stadt Düsseldorf, t. 1, Düsseldorf, 1846, no. 4: a donation by a count in 794 of land in the Ysselgouwe, including: "unum agrum quem Hildigen in homine in meo beneficio habebat." C. Wampach, op. cit., t. i, B, no. 121: a grant in praecario by the abbey of "zum nostrum quam vassalo nostro Fulcundo antequam praetoriam haebatmus." T. Bittermann, Die Traditionen des Hochstifts Pasing, t. 1, Munich, 1905, no. 257 (of 870): "Notices quialetus dominus Atto episcopus in beneficio praeest et coelestem, in ipso ducta in partibus sui hominum cum omnibus suis servitutibus. In hanc enim Usualitatem eis ipsum traditum in servitutem istos episcopos suos dominum sancti Mariæ usque ad finem vitæ suæ. In hoc enim ipsum beneficium acceptot nec fidriter in servitio dominorum sui habebat nec minime perseveravit et nec aliter atque eadem faciebat, privatus de ipso beneficio perseveravit.."

30 The reading "as descriptas ad rescriptos et infestas" (in Besservic, Capitolariæ, t. i, no. 188, cap. 17-22) is a list entitled "De beneficiis qui de eodem monasterio beneficio habeant viderunt"; each article indicating what is held in benefice of the abbey of Wissenbein contains the words "habet in beneficiis". Capitolariæ minorum de exerciti promnente de 885 (ibid. no. 50), cap. iv: "De heminisibus comitum caessis isti sunt excepti. . . . Episcopi vero vel abbas duo tantum de caesiis ac laici hominibus suis dominabant." -Scribentur et in beneficiis ad servitutem notitiam and transferred as "service", meaning that Udalarc entered into vassalage; "serfdom" would not be possible in this context. One may compare an analogous use of the word servitium in Regni regnorum Chronicon (ed. F. Schumach, Hanover, 1890), p. 787, where the account of the submission of Tassilo (cf. below, p. 159, n. 46) is reproduced almost word for word from the Annales regni Francorum, but servitium is used for vassalum without changing the sense ("traddde in mariscus eius ad servitum"). As for the beneficium of Wissenbeim, it seems to be a special case in which even and not those holding possessiones of the church, since these have already been dealt with in the preceding sections.

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where they settled; many of them were probably pure adventurers, who were engaged by their lords because their physical strength made them suitable for service as armati homines.40

Taking everything into consideration, we may say that private vassals occupied in general a rather low position in society, a position not much higher than that which they had occupied in the early days of the institution. Only the grant of benefices to some amongst them had improved the condition of a section of the class. The royal vassals were sharply distinguished from private vassals because of the particularly "honourable" character of this service, since the service was directly rendered to the king. Amongst the royal vassals a position of special importance was reserved for the vassi dominici, who had been rewarded by grants of benefices. And at least towards the end of the reign it seems that a yet higher rank was being elaborated, that of the procers, personages of great importance who were bound to the king by the tie of vassalage and who occupied the highest place in the hierarchy of the class of vassals.41

We have very little information before the reign of Charlemagne as to the precise form of the act by which a tie of vassalage was created. The earliest account of such an act is that given in the original version of the Annales regni Francorum of the submission of Duke Tassilo of Bavaria in 775. For the first time we meet there, in a clear and indisputable fashion, the fact—not the name—of homage by immixtio manus, which was the act of commendation by the vassal, and the oath of fealty, taken by the vassal on the relics of saints, which accompanied and completed it.42 If the account of the ceremony in the Annales regni Francorum is taken from a contemporary source,43 it would indicate that...
the main features of the ceremony are earlier than the period with which we are immediately concerned, but if, as is possible, the passage relating to Tassilo was fabricated in 788 in connection with his condemnation in that year, it would be only under Charlemagne that homage and the oath of fealty make their appearance. In any case, other texts of the period prove that in the reign of Charlemagne these were the acts that a person had to perform in order to enter into a relationship of vassalage to another.

Having now examined the chief problems connected with the institution of vassalage in the Frankish state during the reign of Charlemagne, we can turn to the question of benefices, which since the middle of the eighth century were being more and more freely granted to vassals, and in particular to royal vassals, in order to assure their maintenance and to provide them with the necessary means of fulfilling the services due from them.

years 741-85 was composed in 788-9, but that although not strictly contemporary it was compiled with the help of notes and annals as well as from the recollections of the compiler. M. L. Halphen (Etudes critiques sur l’histoire de Charlemagne, Paris, 1921, pp. 8-9) regards the annals for the years 741-8 inclusive as strictly contemporary with the text as described, but that a few slight changes were made later. Cf. the criticism of these views by M. W. Levasseur in the Nénès Archéol., t. XIV, 1924, p. 391.

*This possibility was suggested to me by my friend and colleague Dr Bonhane, Professor at the University of Brussels, and would be in complete agreement with the views of Monod as to the date of the compilation of the first part of the annals. Monod had already noted the attention paid in them to everything concerning Tassilo, and suggested that the downfall of the last of the national dukes and the suppression of the duchy of Bavaria might have been the occasion of their compilation.*

Annulal regni Francorum, a. 787 (ed. Curze, p. 78; original version): “Tassilo venit per semetipsum, tradit se manibus in manibus domini regis Caroli in vasallaticum”; a. 788 (p. 80): “Tunc dux regni Caroli congregatus ad invictum villa Ingelheim, ibique veniens Tassilo ex isus domini regis, sicut et ceteri dux vasallis; et coepuerunt fidèles Bavarici dicere quod Tassilo fidelis suam salva non haberet.”—Mühlbacher, op. cit. t. 1, no. 719: charter of 793 (see above, p. 152, n. 30).—Capitulare missorium, Capitulare calendarium et regium et imperiale, a. 785 (Boretius, Cod. Sacrum, t. 1, no. 44): “De iurem, ut nulli alteri per sacra etiam sedes promittant nisi nobis et unicuique proprio sacerdos, ad nostros utilitatem et sui secessione.”—Fragment of a charter in Plancher, op. cit., t. 1, no. 104, p. 793, n. 57. (see above, p. 153, n. 37).—Astronomus, Vita Hludwicici imperatoris (ed. above, p. 150, n. 10), c. 21, p. 618, ad subjectam de Wala after the accession of Louis the Pious: “Qui tamen censitse ad ex venit et humilius sucessionem se usus, nonnulla constatimquam Francorum commendam subdicit.”—Thegin, Vita Hludwicici imperatoris (see above, p. 155, n. 42).—Annulal regni Francorum, a. 814 (ed. Curze, p. 121), apropos of a struggle between several pretenders to the Danish throne:

*O fato Heroldius rebus suis suisque et imperatoris venit et in manibus commendavit, qui ille successum in Saxoniae in iuro.—*—Boquet, Recueil des historiens des Gaules et de la France, t. VI, p. 472; act of 815 (cf. above, p. 123, n. 12,

I have made no attempt to discuss here the forms of service that could be demanded of a vassal, since, apart from military service and temporary functions fulfilled by royal vassals, our information on these points is so slight that even a short account of them is scarcely possible.

See my article cited above, p. 147, n. 2.

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We must first deal with one particular but most important class of benefice: those possessions of the Church which had been usurped on a very large scale under Charles Martel, Carloman I and Pepin III, and distributed by the heads of the Frankish state to their vassals. In some cases from the first, but in most cases by virtue of a subsequent regularization of their position, these possessions had come to be regarded as benefices held of the mayor of the Palace and later of the king, and at the same time as *precarii* held of the church to which they rightfully belonged. Charlemagne seems to have envisaged the possibility of a definitive settlement and consolidation of this type of which we may call "mixed" benefice. In the early part of his reign, in the capitulary promulgated at Herstal in 779, he issued certain regulations on the matter. In place of the relatively high figure for the *censum* that had been decided in the time of St Boniface, he substituted a very small fixed *censum*, the aim of which went no farther than maintaining the recognition of the claims of the Church to ownership. The loss of revenue to the church, deprived both of the property itself and of the income from it, was to be made good by the payment of extra tithe, the "ninthes." There grew up in addition an obligation of contributing to the maintenance of the church—that is to say, cathedral, abbey or collegiate church—which was the nominal possessor of the benefice, including the maintenance of any parish churches that might belong to it and the repair of its monastic buildings or episcopal residences. In view of the frequency with which these provisions were repeated in the course of the eighth century, we may consider them to have been a general practice of this kind, and it is evident from what has been said that *censum* and *solo* together formed the fixed income of the church, while *ninethe* and *solo* formed the income of the benefice of the vassal.

Boretius, Capitulatian, t. 1, no. 20, cap. XIII (forma communis): "De rebus vero ecclesiasticis, unde nunc censum curreat, decima et nona cum ipso censu sum soluta; et unde ante non excurrim, similiter nona et decima detur; atque de castis quinquequarta solutum 715, et de castis triginta dimidium solutum, et de viginti trinacrim una..."—Cap. XIV of the *forma langobardica* is more explicit: "De rebus vero ecclesiasticis, quae usque nunc per verbo domini regis homines securiores in beneficiis habuerunt, ut inane alicuius clari, nisi per verbo domini regis ad ipsas ecclesias fuerint revocatas. Et si inde usque nunc ad partem ecclesiae deima et nona exivit, et nunc inanita faciat, it et ipsa ecclesiae de L castas solutum reducta, de triginta medio solutum, de XX trinae reducta; et quod usque nunc alium consumit alicuius clari, inane situs profeitis ipsius faciat. Et unde usque nunc nillum consumit exivit, et ipsa res ecclesiae sunt, constanter et ubi non sunt, scrupulato...".

The nominal character of these payments can be seen by comparing them with those of the time of St Boniface, which amounted to 12 denarii for each family of tenants (Die Briefe des Hei. Bonifatius und Ludolf, ed. M. Tangel, no. 60, p. 123 [dated 745]).

The Council of Frankfurt of 794, cap. XXVI (Boretius, Capitulatian, t. 1, no. 39): "Ut domus ecclesiae et regnum ab eis tamen emendata vel restaurata qui beneficium exinde habent: "—Capitulatian, cap. XXVII (ed. Boretius, cap. XXVII [ibid. 795]): "Quicumque beneficium ecclesiasticum habet, ad sectas ecclesiasticas solemne vel ipso ecclesiae omnino aduevit." The capitulary of which this provision forms a part was perhaps promulgated after the Councils of 813.

Leone, op. cit. t. 2, pp. 313-315.
and ninth centuries, one may conclude that there was great difficulty in securing their observance.

To the number of these benefices that existed from the time of Charlemagne's predecessors a few were doubt added during his reign, particularly during the early part of it. But the chief feature of his policy was not to increase the number of these "mixed" benefices, but to give them a definite character and to put an end to the efforts that were made by the Church to recover them. Hence the clear distinction made in the Capitulary of Hesralst between the benefices described as precariae de verbo nostro factae and those granted voluntarily by the churches (eas quae spontanea voluntate de ipiss rebus ecclesiasticis factiun); only those of the latter class were declared to be revocable by the churches that had granted them. 56

56 Although Charlemagne no doubt

57 E.g. Caroli episcopi in Italian mise of 779-81 (Boretius, Capitularia, t. n. 97; for the date, see De Clercq, op. cit. pp. 161-2; Council of Frankfort (see above, p. 157, n. 51), cap. xiv; Italian capityl of Pepin of 802-10, cap. vi (Boretius, op. cit. p. 162), etc.)

58 Some traces of the practice can be found in the texts; e.g. de Hervonec, Cartulaire de l'abbaye de Gorze, Paris, 1868, nos. 12, 13 (both dated 770); Prou and Vidier, Ressoi des chaires de l'abbaye de Saint-Benoit-sur-Loire, t. 1, Paris, 1907, no. 19. The date of this last is 835, but it refers to events that took place at the end of the reign of Pepin III and the beginning of that of Charles. The first of the texts deals with properties held in benefice by the Church of Metz, which are distinguished from the precariae de verbo nostro factae (e.g. "rem illam... quam Berto ad partem Sancti Stephani delegavit, et ipsa modo per precarium tenet, seu etiam illam in ipsa, seu quae in ipsa, quam Nebolungus per beneficium Sancti Stephani vel nostrum tenere videtur... "); the second is concerned with a domain "qua mun per beneficium Sancti Stephani vel nostrum tenere videtur" and of another "qua Godfridus, similor homin dominicus per beneficium Sancti Stepiani vel nostrum per precarium tenere videtur". In the third text, Louis the Pious restored to the abbey of St-Benoit a part of a domain that had been usurped by the Crowns and given in benefice to a royal vassal; the latter, and no doubt other vassals after him, had retained it after Pepin had restored the title to the abbey.

59 This was the view of M. Pöschl, Beschaffung und Vererbung in der frühmittelalterlichen kirchenrechtlichen Geschichte, (t. 1, Bonn, 1906, pp. 121-29, and it seems to be correct. It is possible that the passage in the Gesta abbati Fontenellensis, cap. (ed. Loewenfeld, Hanover, 1886, pp. 44-5), relating to abbot Guy (755-87) refers in part to the reign of Charlemagne; certain "res sacrosanctae iuris regis regius dominicus ad posuendum et recipiendum" is noted to be in it. It is safer not to use four charters of precaria that figure in the Gesta Abdis (ed. Charles and Pater, Malmers, 1899, pp. 179-83), and which mention precariae verba regni sacrosancti. In any case it is very doubtful. Further research into the secularization of Church property under Charlemagne will be found in Loewen, op. cit. t. 11, p. 65 sqq.

Save where Italy is concerned, however, the evidence quoted is generally rather asc and its value is often open to question. See also above, p. 151, n. 23.

60 Boretius, Capitularia, t. no. 50, cap. xiv, forma longobardica, the first part (see above, p. 157, n. 49) and the last: "Et sit discreto inter precaria de verbo dominicio facias et inter eas quas episcopi et abbates et abbatiae eorum arbitrio vel dispositione faciant, ut literas... quaeque ad eos, quos ipso beneficium ad posuendum et recipiendum... in ipiss uaciss eae sacrae recipere... facias...". It seems that one must make the same distinction in cap. xiv, in Freiheit, of the Gesta abbati Fontenellensis (p. 45) where the author, writing of the possessions of the abbey of St Wandrille, distinguishes between those "qua ad usus proprios fratrumque aristissimae pertinere videtur", those which "in beneficis relaxati sunt", the domains that abbots Guy "regiae dominicatae et beneficiae" and those "qua sub usufructu alii concasi".

61 It seems to have made relatively important restitutions to the abbey of St Wandrille (Gesta abbatis Fontenellensis, cap. xvi, p. 47), probably between 802 and 806, under Abbot Gervold. Perhaps some sort of restitution is indicated in a charter of Gorze of 799 (Cartulaire de l'abbaye de Gorze [cited above, p. 158, n. 41, no. 25], by which a certain Sigerramus declares that the church of Jouy-les-Argues (dept. Meuse, arr. Muts, cant. Gorze) belonging to the abbey "per beneficium ius et possessio spontanea voluntarie per no(u)strum gladium rebus reddidit"; after this restitution he takes the property back as a precaria.

62 Capitularia missorum sanctissimi of 802 (Boretius, Capitularia, t. n. 34; op. cit. p. 159, n. 32), cap. vii (De illis hominibus, qui nostros beneficia destituxerunt et aliis eorum locis omnibus beneficio regale tam de rebus ecclesiasticis quam de reliquis habere videtur..."

63 This was evidently the case for the property restored in 833 to St-Benoit-sur-Loire; see above, p. 158, n. 14.

64 On the word beneficium as applied to the early ecclesiastical benefices, see E. Lemen, "Les diverses acceptation du terme 'beneficium' du VIII au XI siècle", in the Revue historique, droit ferronnerie et draperie, 1924. On beneficium as used by St Benoist, see the Capitulary of Hesralst, forma longobardica, cap. xiv (above, p. 158, n. 50).

65 Beneficium might also designate other forms of tenure, as for example that of a "muro" (cf. cap. x of the Capitularia de villa, in Boretius, op. cit. no. 32), and of course the expression of the grant of the fief for a fixed period of time is not for a "muro" but for a "fidei doni".

66 This is also true of the "beneficium" of the soil (cf. cap. xxv of the Capitularia ecclesiasticae issued by Ansegisus of 802-13, in Boretius, op. cit. no. 81; see De Clercq, op. cit. p. 158, n. 32). It is quite impossible to say precisely what form of tenure the word is used to describe, in certain diplomas of Charlemagne (e.g. Mühlbach, op. cit. t. 1, nos. 90, 121, 144, of the years 775, 779, 782) and in private charters (e.g. Wartmann, Ueberhodnung der Abtei Stift Gallen, t. 1, Zurich, 1863, no. 116, of the year 798).

67 The use of the word beneficium as applied to a precaria is extremely rare. If I cite a few examples, grouped according to the modern source from which they are taken, take for example the Albanian document of Abbot Chevalier, Gallia Christiana nova scripta, Adversus; Valence, 1859, no. 3 (750): Beyer, Ettest et Geera, Ueberhodnung der Geschichte der..., mittelrussischen Territorium, t. 1, Koblenz, 1860, nos. 21, 23, 30, 33 (867-87): Bitterauf, op. cit. t. 1, nos. 38, 40, 42, 46, 139, 171, 187, 195, 240, 247, 273, 278, 287, 295, 306, 310, 315 (870-814); Dévillé and Vassort, op. cit. t. 1, p. 116, pièce justiciables, nos. 15 (802): Drank, op. cit. nos. 68, 75, 99, 117, 118, 209, 213 (788-803); Gallia Christiana, t. 211, instrumenta ecclesiae Tournensis, no. 12, cols. 12-13 (813); K. Griesbach, Codex Laurenzenbacher, t. 1, Darmstadt, 1929, no. 14 (790); G. Guérin, Cartulaire de l'abbaye de Saint-Benoit, Paris, 1841, nos. 47, 50, 58, 54 (802-12); and Hervonec, op. cit. nos.
The vassal benefits that figure in our sources are, as a general rule, landed estates. This is true both of benefits granted by the king and those granted by private persons.64 Their size naturally varied greatly according to circumstances. Sometimes we meet with grants of whole domain (villa) by the king,65 but as frequently the grants are of fractions of a domain,66 or only of several manssts.67 There is some reason to believe that four manssts may have been regarded, at least in the west of Gaul, as the minimum size for a benefice held of a private person, and that twelve manssts may have been the usual benefice held by a vassal bound to serve as a mounted soldier. Certainly the possession of the former of these, towards the end of Charles's reign, entailed on its holder the obligation of personal military service,66 which we know was required of a vassal,67 the possession of the latter obliged their holder, particularly if he was a vassal holding them as a benefice, to serve with a brana, that is, as a mailed and mounted soldier.68 Very large benefits, particularly those held of the king by vassi dominici, were no doubt in part regranted as benefices to sub-vassals.69 Benefices, however, were not necessarily limited to landed estates; abbeys, for example, were often granted by the king on this type of tenure.70

The nature of the rights of both parties over their benefices at the time of Charlesmagne is abundantly illustrated by the capitationes. These are full of dispositions of every kind regarding property held of the king. One meets with injunctions to the holders not to cultivate their benefices badly, not to neglect them in any way, and not to exploit them for the benefit of their private possessions.71 The maintenance of the familia on them in case of famine was an obligation on the tenant.72 There is at least one disposition directed expressly against those who tried to use the familia in order to increase the value of their private possessions and those who attempted to assimilate the beneficium to their own alodial property.73 The king did not lose interest in a benefice once he had granted it away, but kept a watchful eye on it to see that those who were in possession did not exceed their rights over it as tenants. The vassals, in fact, like those who held a precaria, had little more than the usufruct of their benefice.74 The distinction between the beneficium and the proprietarium or alod, the property of which a person was truly owner, is very clearly made in the capitationes,75 quicunque ex eis cum domino imperatore domi remanserint vassallos sui causatos secur non retenire, sed cum comite cauis pagantes sustire permittat.76

That the case was understood by Charles Martel and Pepin II was evidenced by a diploma of Charlemagne, probably of 782-3 (Muilerbacher, op. cit. t. 1, no. 148). An Italian capitation of Pepin, probably of 757 (Boethius, op. cit. no. 95; on the date, see De Clercq, op. cit. p. 163), suggests that the practice persisted under Charlesmagne.77 Capitatione de metterestia et senediclia qui per diverses comites esse videtur, ut reges sint et quicunque min ore habuerint, per beneficium domino nostro regis habent.78 It seems probable that the dispositions mentioned here were of a general character, though in this Capitulation only their application in Italy is in question.

Counsel of Frankfurt of 790 (Boethius, op. cit. no. 59), cap. vi: "Ut misiti nostris provident beneficium nostra quodammodo sustinenda et nobis remanarum sciant" (cf. cap. v of the Capitulation Aquitanicum of Pepin of 785, 789, in Boethius, op. cit. no. 18). Capitulare aquitanicum, a. 789 (ibid. no. 44, cap. vi: "Quomodo illius beneficium habent conditores provident vel suis propriis." Capitulare missorum generale, a. 802 (ibid. no. 35, cap. vi: "Ut beneficium domini imperatoris deserere nemo audeat, proprium suum exinde constructum." "Capitulare missorum speculam, a. 802 (ibid. no. 35, cap. vi: "Ut nisi nostrum habet beneficium, diligentissime praeveatis, quantum potent Deo donante, ut nihil ex mancipiis ad illum pertinentes beneficium fames moriatur."

A similar capitation of Nimes of 786 (Boethius, op. cit. no. 44, cap. vii: "De armatura in exercitu, sitis aequis in alio capitulare commendantia, in servitut, et insuper omnibus hac duodecim manibus brumen habeat; qui vero brumen habebat et earn secum non tulerit, onem beneficii cum bruna pariter perdat." A similar capitation of Boulogne of 817 (ibid. no. 74, cap. vii: "De vassi dominici qui adhibere in servitute servantes et tamen beneficium habere nonnullum, statutum est ut

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64 See, for example, the diploma of 785 for St-Benoit-sur-Loire (cited above, p. 168, n. 54).
65 Capitulare missorum de exercitu promovendo of 808 (Boethius, op. cit. no. 59), cap. i: "Ut omnis liber homo, qui quator mannos vestitos de proprio sive de aliebus beneficium habet."
66 Beneficium is applied here, apparently, to any type of benefice, including that of a vassal.
67 The text cited in the preceding note goes on to prescribe that the foresaid free man be "caparet et per se in hostem percut, servat cum seniore suo et senior elius persequar, sive cum copte suo unde.
68 Capitulare missorum in Theodinonis villa datum secundum generalis of 805-6 (Boethius, op. cit. no. 44; on the date, see De Clercq, op. cit. pp. 207-8).
69 De armaturia in exercitu, situ aequo in alio capitulare commendantia, in servitut, et insuper omniis hac duodecim manibus brumen habeat; qui vero brumen habebat et earn secum non tulerit, onem beneficii cum bruna pariter perdat.
70 Capitulare missorum de exercitu promovendo of 808 (Boethius, op. cit. no. 44), cap. vii: "De armatura in exercitu, sitis aequis in alio capitulare commendantia, in servitut, et insuper omniis hoc duodecim manibus brumen habeat; qui vero brumen habebat et earn secum non tulerit, onem beneficii cum bruna pariter perdat.
71 Same capitulare, cap. vii (see above, p. 158, n. 63).
72 See the text cited above, p. 158, n. 61.
73 Capitulare missorum de exercitu promovendo of 808 (Boethius, op. cit. no. 44), cap. viii; see above, p. 157, n. 72.
The question of the rights of lord and vassal over a benefice is bound up with the question of the duration of the rights of the vassal. There is no evidence to show that under Charlemagne any modification took place in the state of affairs that obtained in the time of the early Carolingians. The benefice still remained a grant made purely for the lifetime of the recipient. No doubt there were a number of cases, one may even say a relatively large number of cases, in which the same benefice remained in the hands of a single family during two or even three generations. But this was manifestly only a question of fact, which had not yet necessarily produced any changes in the sphere of law. So far as concerns the custom of *Herrenfall*, as it is called by German historians, by which the concession of a benefice ended with the death of the grantor, and which appears to have been anterior to the time of Charlemagne, we have one explicit testimony to its existence during his reign. It is true that the text in question is not concerned with a benefice properly speaking, but with a tenure by *aprisio* in Southern Gaul, and there is no reason to doubt that the custom of *Herrenfall* applied also to benefices in the strict sense of the word.

Amongst the most important questions which concern the benefice, that is to say, its union with vassalage is one that must chiefly demand our attention. I am not concerned here with the union as a matter of fact, with the general and widespread custom both of the king and of private lords of granting benefices to vassals. This union of fact dates from the reign of Charlemagne and Pepin III, and was maintained and developed, though without taking on any exclusive or necessary character, and complete each other in the *Capitulare de infeudatione* of 821–13 (Boccius, *Capitulare*, t. i, no. 86), cap. v: "Ut neque nostris diligentiae inquisitare et describere faciat unusquisque in suo missicio, quid unaqueque de beneficio habeat vel quos homines casatos in ipso beneficio"; cap. vi: "Ut non solum beneficia episcoporum, abbatum, abbatasarum et ecclesiarum sive vassalorum nostrorum sed etiam nostrui faciatur eadem, ut seire possimus quantum istam de nostro beneficio casatas se habeas." Italian Capitulary of Pepin, probably of 787 (ibid. no. 93), cap. vi; see above, p. 161, n. 70–1. A diploma of Charlemagne for Fulda of 779 (Mühlbacher, *op. cit.* t. 1, no. 127): "Sprengel, *op. cit.* no. 920: "...donaturique in perpetuum eam voluit unam quasdam res proprietatis nostrae, hoc est in pago Wermaciens, suas fidelis nostri Dianarius per nostrum beneficium visus est habuisse, id est in Mogoncius civitate manse XXX et v nonnullum eam visum et visum ad ipsum beneficium pertinentem." The rights of the proprietorship of the king over the benefices held by him and over the male and female serfs attached to these benefices are affirmed in a number of judgements pronounced in the course of certain legal disputes regarding benefices in the Autunno, principally at Percey and Baugy, which were held by members of the family of the Nibelungen (Prou and Vidler, *op. cit.* t. 1, nos. 9–13, 16, 177; a. 790–831). No. 6 (758) is especially characteristic: "veniens Moresis, advocatus Hildebranum comiti, de Mari, Bardonova villa, dolo se dedit eadem clove Donole, quod servat erat domino Karole de suum beneficium, de villa quae dicitur Jove [Jeo]," and further on: "...recelat quod servat erat domino Karole regis in indiction villa Jove." On these disputes, see L. Lancher, "Les Nibelungen historiques et leurs alliances de famille" (in Annuaire du Midi, 1937), pp. 343–77; Bistora (op. cit. t. 1, no. 1005): a diploma of Charlemagne in 793 to the church of Freising of property that he held in benefice of the king: ". . . ipsius Marns . . ."—Mühlbacher, *op. cit.* t. 1, no. 206: Charlemagne confirms in 827 an exchange of property between the church of Würzburg and count Audulfib, the bishop compensation of a benefice to the church of Audulfo (see above, p. 156, n. 50). It is clearly implied by the *Gesta abbatum Fontamentani*, cap. xv, where the manumission of beneficients relaxant sunt is classified with those which "ad unus proprios fratrumque stipendium pertinent videtur." It is also implied by the inventory of property conceded in benefices that appears in the description of a part of the possessions of the abbey in the *Breviarii exemplar* (see above, p. 150, n. 59). See also a charter of 756–7 in Wampach (op. cit. t. 1, ii, no. 110), in which a benefice conceded to a yard is described as "rem nostram, quam vallario nostro Fulcoide ante prestatum habuimus." It appears to be implied by two documents a general nature that at once follow.
under Charlemagne. Evidence, both implicit and explicit, is plentiful in capitularies and charters as to its existence.\textsuperscript{84} What I am concerned with is the union in law of vassalage and benefice, a union of a type that produces some juridical effect.\textsuperscript{85} The existence of the custom of Herrenfall, the fact that the concession of a benefice ended if the relationship of vassalage was brought to an end by the death of the lord, implies to some extent this union in law. But can one go farther and say that under Charlemagne the evidence is sufficient to prove a closer union between the two institutions of vassalage and benefice?\textsuperscript{86}

The answer to this question must be in the affirmative, at least so far as the later part of the reign is concerned. After the Imperial coronation in 800, it seems as if Charlemagne made a larger use than formerly of the institution of vassalage in the organization of the State. The close union of benefice and vassalage is clearly apparent in the instructions given in 806 to the missi at Nijmegen. When dealing with offences of which royal vassals might be guilty, and in particular with attempts to appropriate royal benefices, the emperor declared that this was a breach of the oath of fidelity that the vassals had sworn to him.\textsuperscript{87} In other words, a respect for the terms on which a benefice was held was explicitly recognized as an element in the pact of fidelity between the vassus dominicus and the king, his lord.

Other texts testify to an even closer union between the two institutions. The service of vassalage was treated as being the immediate reason for the grant of a benefice, so that if the service ceased to be rendered, the reason for the grant disappeared and the grant itself was revoked. That this was the actual position is implicit in the fact that confiscation of the benefice was regarded as one of the sanctions which came into force if the obligations of vassalage were neglected.\textsuperscript{88} There are two texts that seem to

\textsuperscript{84} Cf. what has been said above, pp. 135 sqq., on the subject of vasti casati.

\textsuperscript{85} In the sense indicated by Mittels, op. cit., p. 129 sq.

\textsuperscript{86} Mittels (op. cit. pp. 125-29) is prepared to admit it for the later part of the reign.

\textsuperscript{87} Capitulare missorum of Nijmegen (Boretius, Capitulular, c. 1, no. 46), cap. vii: "Audimurus quod aliquid reddiderit beneficium nostrum ad alios homines in proprietatem, ot in ipso placito data petito compropria ipsius res iterum sibi in alio modo commendationem est, quia qui hoc faciunt non bene custodient edem quam nobis promissum habent. Et ne forte in aliqua infidelitate inventantur; quia qui hoc faciunt, per eorum voluntatem ad aures nostras talia opera illorum non perveniant." It is of course necessary, as Mittels (op. cit. pp. 147-51) has very rightly pointed out, not to confuse the confiscation of a benefice as a punishment for a failure to fulfill the specific obligations of vassalage with the confiscation of a benefice as a punishment for some breach of the law. To the second class of offences belong those provided against in the Capitulare of Herstal of 779 (Boretius, Capitulartur, no. 20), cap. ix (refusal to surrender a robber), the Italian Capitulary of Pepin of 732-6 (ibid. no. 91), cap. vii (failure to fulfill legal obligations, institus succede, and so on; see above, p. 139, n. 7), the Capitulary of Boulogne of 811, (ibid. no. 74), cap. v (failure of a royal vassal to take part in a campaign when called upon to do so).

\textsuperscript{88} It is often said that it was under Charlemagne that benefice and vassalage began to be incorporated in the administrative machinery of

\textsuperscript{89} One might at first glance cite as a third relevant text cap. vi of the Capitulare missorum genera of Thionville of 805-6 (Boretius, op. cit. no. 44; see above, p. 160, n. 68). But this is really only another case of confiscation following some breach of the "capitulation law", like those cited in the preceding note.

\textsuperscript{90} As at Aachen of 802-13 (ibid. no. 77), cap. xx: "Et si quis de fielidibus nostris contra adversarium suum quisquam aut aliquem certamine voluit, et concivavit suo et ab aliquem de comparis suae voluit et ab aliis suorum proteetam, quum ei non induiit et exinde neglegit, ille homines sumptum, ipsum beneficium et quod habebat as parturit ab eo et detur ei qui in stabilitate et fielidate sua permanit." Mittels (op. cit. pp. 149-50) believes that this text has in view all vassals, and, arguing that the Carolingian vassal was the "peer" of his lord, he would interpret the provision as declaring that when a lord demands the aid of his vassals for a private war ("Fechte"), a vassal refusing his aid will lose his benefice. It therefore proves the existence of a legal bond between benefice and vassalage, since it is an example of the confiscation of the benefice as a punishment for the failure to fulfill the service required of a vassal. This interpretation, in my view, is incorrect. In the first place, I do not believe that in a capitulary of Charlemagne a vassal would be described as the peer ("compar") of his lord; the examples cited by Mittels, which in any case only refer to the word "par" and not "compar", are irrelevant. And secondly, and more important, if Charlemagne had promulgated a provision with the meaning that M. Mittels attributes to it, it would have been tantamount to encouraging the practice of private warfare, a support which is quite irreconcilable with the emperor's efforts for the maintenance of pacem. The truth is that the provision is concerned with a peer appealing for help to one of his comparis, that is, to another person of the same rank. This group, in my view, can only be that of the royal vassals; failure to help the king, who have received benefices from him, can scarcely mean a breach of his life.

\textsuperscript{91} Bitterauf, op. cit. t. i, no. 257; see above, p. 154, n. 39.
the Frankish state. Certainly, in the years that followed, these institutions were to exercise a considerable influence over the transformations that the Frankish monarchy and its successors were to undergo. It is therefore worthwhile attempting to discover how far the ascription to Charlemagne of their introduction into the fabric of the state is correct.

We have seen already how Charlemagne, even at the beginning of his reign, was accustomed to use his vessels for every variety of mission and service.82 We know also that during the epoch of the early Carolingians, and probably even earlier, the royal vessels were primarily soldiers.83 But during the later part of Charles's reign, the years that followed his coronation as emperor, the duties of the royal vessels, both military and otherwise, underwent great developments. The importance of the *vassi dominici* became so considerable, and their role in upholding the personal authority of the monarch became so essential, that strict measures had to be taken to ensure the maintenance amongst them of the good relations necessary to secure their efficient co-operation in the royal service. The *misiti* were entrusted with the duty of seeing that these good relations were maintained amongst the vessels, just as they were bound to see that good relations reigned amongst the other representatives—bishops, abbots, counts, abbesses—of the royal power. A capitulary of 802 gives us formal evidence on this point,84 and the severe punishment that was to follow the failure of a royal vessel to respond to a demand for assistance from another *vassus dominicus*85 is further evidence of it. The emperor took measures to secure the safety of his vessels. In 810 or 811 he went so far as to place them on the same level as the *misiti*. The severest penalties were decreed against anyone who attempted to prevent a *misitum* or a royal vessel from fulfilling the terms of his mission. Death or, if the attempt had been in ignorance of the rank of the person attacked, the banum—the heavy royal fine of 60 solidi—were the commonest penalties.86

82 See above, pp. 145–9.
83 See my article cited above, p. 147, n. 2.
84 Capitularia missorum spectaculis, a. 803 (Boretius, Capitularia, t. 1, no. 34), cap. xvii (only in the text for the two *misitae* whose centres are given by Boretius as Paris and Rouen): "Ut diligenter inquirant inter episcopos, abbatis, abbatissae et suis comites vel abhonestas stigmata vassos nostrum quem conscribit in missum hanc libent per singula missoria, et si aliqua discordia inter ipsos esse videbitur, et ommum vestrum in sacro consecratio nobis exinde remittare non neglegent!"
85 See p. 165, n. 90.
86 Fragments of lost capitularies, preserved in the collection of Ansegis (Boretius, op. cit. no. 70, where they are dated 810–11), cap. 1: "Si quis super missum dominicum cum coelebs et arma veniret et missum illi triumphant contredixerit aut contradiceret voluerit, et hoc si adversum fuerit quod scient cum missum dominicum ad resistendum venisset, de vita componeret et si negaverit, cum ipsi suis tumulis aedificare faciet; et pro eo quod cum coelebs contra missum dominicum arma venit ad

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الseverity of these punishments is an indication of the position held by the royal vessels in the structure of the State.

One important aspect of the development of royal vassalage is the entry of the counts, that is, of those who were most characteristically territorial officials, into the system. This development does not belong entirely to the years subsequent to the Imperial coronation; one meets it with at the beginning of Charles's reign,87 and even during that of his father.88 But from the year 800 onwards the benefits held by counts become a regular object of legislation in the capitularies, which suggests that the practice had suddenly become a general one.89 The benefits in question were those that the king disposed of at his pleasure; they were not necessarily even situated in the county of the recipient.90 It is not possible to say whether the regular landed endowment of the count—the ministerium, the *ros de comitatu*—which certainly goes back at least to the reign of Charlemagne, was already held as a benefice,91 but I am inclined to believe that it was.
A remarkable feature of the period is that not only royal vassals but even private vassals had already found a place for itself in the political framework of the monarchy. It was utilized both in the military and judicial spheres of government.

Military service, it is well known, was limited to those who could dispose of a certain amount of land. But from this limitation all vassals to whom benefits had been conceded, and whoever their lord might be, were exempt.106 To this rule only very rare exceptions were made. In 808 the counts were authorized to leave at home two beneficed vassals (vassi castris) to guard the women and their houses, and two more in each of their counties for the king’s service; each bishop and each abbot might leave behind two vassals for the service of the church. In 811 each lord was authorized to leave behind two of his vassals.107 The vassals normally rejoined the army under the leadership of their lord, but the sub-vassals of the king108 were bound to take part in military expeditions even if their lords were retained in the interior for home service; in this event, they came under the command of the count of their pays.109 Moreover, in circuitu pericis ex aliis necnon et in eodem loco de fisco nostro quem Wernfriedus in beneficium habebat, pericis ex aliis et de fisco nostro quem Huculofusus in ministerium habebat, pericis xxviii.”110 On the north-west of the office of count E. Lena, 11, II, pp. 234 sqq. (with a documentation later than the reign of Charlemagne), op. cit. no. 48, cap. ii: “In præsente quinque veneratione habère videtur, non esse in forma only a single text, cap. iii: “De Præsenti volumus ut comites et vassali nostri, veniant bene præparati.”111 Cf. also the second Capitulare missorum generalis of Thielschol, cap. vi (see above, p. 160, n. 68).

“De hominibus cavitis qui sunt excepiti et banumum reddere fuerint: duo qui dimissi fuerint cum uxoribus illis et dux duo qui præsenter ministeriis causaque modo praescriptione, ut quinque ministeria unusquisque comune haberent totius nostris status se suis pariter diligentias habente aliquot vel aliqua.”112 Ego in consilio possit unius ministerii, et facile hominibus suis domini diriger. Capitulare Bononemues, a. 811 (op. cit. no. 74), diurniter eosque numerus ut missis nostris ostentent, quia hanc tautummodo heribalium concessimus.”

Capitulare missorum de exercitu promovendo, a. 808, cap. i, iv (see above, pp. 160, 164, nn. 64 and 103). Capitulare Bononemues, a. 811 (Boreius, op. cit. no. 74), cap. iv: “Quo ictuque liber homo inventus fuerit praestubre cum seruiis suo in honore non fuisse, plurum heribalium persolvere cognoscat.” See also below; cap. xvi in an expedition on the pretext that their lords had not been called to participate in it.

Capitulare Bononemues, a. 811, cap. vii (see above, p. 160, n. 69). Other provisions of the capitolary (Boreius, op. cit. no. 74) show equally the essential part played against a royal vassal cataris whose purus are called up on a military expedition and who does not come himself), cap. ix (penalties against vassals who have not accom-
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The state was linked up with the formula adopted in 802 by Charlemagne for the new oath which all his subjects were compelled to take to him as emperor. As compared with the formula of 789, it appears to have taken on a character quite unnecessarily long and complicated. But its real connection is with the oath of 789 than with the oath of vassalage. This can be seen by comparing it with the oath attributed to Tassilo in 757 by the Annals regni Francorum and which, even if it was not in fact taken by Tassilo, is none the less a genuine oath of vassalage. The parallels between the two formulas are quite remarkable; the very terms of the oath of vassalage have been introduced into the oath of fealty imposed on all subjects of the Empire, the only difference being that the phrase "sicut vas sus dominus suus esse debenter" has become "sicut...debet esse domino suo". This change was obviously necessary, since the technical term "vassal" had to be replaced by a more general word which signified a person dependent on another and which could be applied in all strictness to the whole body of the emperor's subjects. But otherwise there has been taken over from the concept...
of vassalage all that could give additional binding force to an act which confirmed the duties and obligations of a subject towards his sovereign. We cannot of course go farther than this and conclude that the oath conferred on all subjects the quality of a vassal of the emperor. Nor even, in spite of the great body of legislation relating to vassalage that we have already passed in review, can we conclude that Charlemagne transformed the Frankish monarchy into anything resembling a feudal state. What is true and important, for the general constitutional history or moral person ( homo alcuin ), the word homo implies a notion of dependence, without it being always possible to determine the precise nature of this dependence. Such is the case, for example, in cap. xiv ( forma langobardica ) of the Capitulary of Herstal of 779 (ibid. no. 20; cf. above, p. 158, n. 49), where homines of churches are referred to as having received precarios which were not conceded bona regis, and in cap. iv of the Capitula a missa cognita facta of 802-13 (ibid. no. 59; on the date, see De Clercq, op. cit. pp. 225-7): "Nullus homo hortius clerici aut hominem recipiat in sua potestate;" there is an analogous example in cap. iii of the Capitula per missa cognita facta of 803-13 (ibid. no. 67). "Ut nullus complate cæsarius, bowen aut hominem vel alia, nihil illum hominem cognoscat qui ei venditit, aut de quo pago est vel ubi manet aut quis es eius senior." The word is used in the same sense in canon 9 of the Council of Frankfurt of 784 (ibid. no. 28), where Bishop Peter of Verdun protests that "suis homin ad Dei judicium irem" to rebut an accusation. In cap. v of the Capitularia insignis facti de 811 (ibid. no. 86) the missa are instructed to undertake a survey of the benefices in each metropolitum and to note in it "quod homines capitata in ipso benefici (have been)"; these homines sancti may be either nati sancti or descendentis of an inferior status occupying agricultural tenures (manes or parts of mani). The latter are certainly the persons referred to in the Capitularia missarum Aquitaniae primorum of 890 (ibid. no. 67), cap. xii: "De merendis ur dis dominorum nomen agentur in dictis in quibus homines ad opus dominorum suorum deveient operam," and in other texts.

The status of vassal, if it happens to be that of the homo of a lord or even of another homo of a kindred, is not explicitly placed in some other relationship of a lord, can only be recognized from some element in the context. Frequently it is shown by the fact that the homo is in possession of a benefice; e.g. the Capitula missarum specialis of 804 (ibid. no. 34), cap. x: "De illis hominibus qui bene sit hominem habent decesta et alodis eorum beneficia;" Capitularia legi ruberree additio of 805 (ibid. no. 39), cap. vii: "Sumi ut et de beneficio hominum, si forte sempr non habuerit, mittat in bancum usus quo semper interriret;" Capitularia missarum Nymgeacum datum de 806 (ibid. no. 39), cap. vii (see above, p. 196, n. 149); Capitularia missarum diversitatis de 807 (ibid. no. 40), cap. iv (see above, p. 170, n. 112); Capitularia missarum de consistu principalitatum de 808 (ibid. no. 50), cap. i, iv, v (see above, p. 156, n. 15, cap. v: "De hominibus qui semper sunt et execrescunt et alabatur qui vel beneficiar vel aliam propriam habet, ut ex eis secundum necessarium hostium benem possit possidere;" Capitularia Bonemense de 812 (ibid. no. 74), cap. ix (see above, p. 188, n. 104); Gesta abbatum Pontificalium, cap. xv (see above, p. 158, n. 35); the charters of 785, 794, and 807 in Droncis, op. cit. no. 83; Landebriff, op. cit. i, iv, 4; and Bitterful, op. cit. t, no. 257 (see above, p. 154, n. 39).

As to the expression dominus suo, it is true that it is not exclusively used to designate the relationship of a lord to a vassal, but it is none the less the case that the person to whom it refers has a dominus, and it may be applied to the lord of a vassal. The general sense of the word allowed of its retention when the general oath taken by all subjects was constructed on the basis of that taken by the vassal to his lord.

111 The distinction between the two conceptions was clearly made by G. Waiz, Deutsche Verfassungs geschichte, t, 111, pp. 297-8.

112 As appears by implied by section 3 of Chapter 4 of Book IV of Pustel de Conduits de la royauté pendant l'époque carolingienne (Paris, 1891), p. 611 sqq. The title "L'Empire de Charlemagne est déjà un état féodal" is not that of Pustel de Coulanges, but that of his editor Camille Juliann.

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of Western Europe, is that Charlemagne, in particular towards the close of his reign, incorporated in a far-reaching degree the institutions of vassalage and benefice united to one another into the structure of a State constructed on totally different foundations.

The system of legal relationships based on the ties of vassalage and the grant of benefices, which already under Charlemagne had come into existence, began even at this early date to undergo certain changes. It was both through and because of the beneficial element in the combination that these changes began to take place.

In the first place, it must be noted that there were in existence certain very serious dangers that threatened the rights of the proprietors of property conceded in benefice. Many of the capitationes, and particularly those of the ninth century—for during the later years of Charlemagne the decline in the power of the Frankish monarchy had already begun—prove that the holders of benefices were constantly occupying the king over these benefices, or over fractions of these benefices, or over the men depending on these benefices. Others prove that the lands given in benefice by the king were often neglected or badly exploited; the frequency with which measures designed to put an end to these abuses have to be repeated in the capitationes is a proof of their persistence. A condition which was often imposed by donors of land to an ecclesiastical establishment, that the substance of their gift should not be conceded in benefice, indicates that the same abuses existed on lands held of the Church as on those held of the king. It is important to grasp the real
state of affairs revealed by these provisions. The true master of a benefice was no longer the proprietor, but the tenant who held the land. It was difficult, and often it was quite impossible, to do anything against him. His rights were destined in the future to go on expanding, just as those of the proprietor were destined to contract.

The first signs of yet another fundamental change are already visible during the reign of Charlemagne. In the relationship which we have been studying, the personal element, the tie of vassalage, is always the essential feature; the benefice is quite a secondary element in the relationship, and in reality only a form of the maintenance that a lord was bound to provide for his vassal. But already during this period it is becoming plain that almost the sole motive determining a person to enter into a relationship of vassalage with another is the prospect of receiving a benefice from him. There is in existence a charter of 807 in which this idea is so clearly expressed that we are justified in stating it in the most general terms.130 The desire for benefices was so great among the vassals that they were prepared even to commend themselves to a second lord in the hope of receiving one or more benefices from him. It was this plurality of allegiance, which was contrary to the essential principle of vassalage and which made it impossible for a lord to control his vassals, that ruined the whole system when it finally became the general practice towards the close of the ninth century. Under Charlemagne it was strictly forbidden; one of the chief provisions of the Duxit regnorum of 866 was the prohibition of a vassal in one kingdom from holding a benefice in another,131 and although there were no doubt several reasons for this prohibition, the chief one was to prevent the creation of double vassalages which would give rise to the scandalum of dual allegiance.

But there was one even graver result of the extension that took place at this time of the institution of vassalage and its union with that of the benefice. We have already seen how these institutions had been introduced into the body corporate of the Frankish State in the hope that it would derive fresh strength from them. This hope was to prove in vain, and the influence of the institutions in question was to form one of the chief factors in the dissolution of the Carolingian Empire.

The manner in which these institutions were going to influence public relations in the future can already be seen from two capitularies of 810/11 and 811. In the first of these, which is devoted to military affairs,132 there are two articles dealing with men who have failed to fulfil the military service to which they are bound. Some declared themselves vassals of King Pepin of Italy or of King Louis of Aquitaine, and when the men of their county were called up they refused to join them, on the pretext that they would have to serve under their proper lord. Others refused to join the contingents of the county on the ground that their lord had not been called up, and that they could not leave him; there were even some ingenious persons who recommended themselves as vassals to lords whom they knew were not going to be called up at all. In the Capitulary of Boulogne of 811133 we hear of the vassals of royal vassals who were detained for home services, and who would have remained with their lords and refrained from joining the army if they were not expressly ordered to do so by the emperor.

These measures indicate already the existence, at the close of Charlemagne's reign, of a conflict between the personal obligations of a vassal towards his lord and his obligations as a subject towards the emperor. They even show that men were already using their obligations as vassals as a pretext for refusing to fulfil their obligations as subjects. If it was still possible, as long as Charlemagne was alive, to hold in check to some degree the vicious consequences for the State that this situation was bound to produce, it was no longer possible during the reigns of his successors. From this failure there was to result a still further series of changes in the functioning and the reciprocal relationships of vassalage and benefice, as well as on their action on the structure of society and the State.134

130 Capitula de rebus exercitabilibus in placito tractanda de 816-11 (Boretius, op. cit. no. 73), cap. viii: "Sunt etiam ali qui danscum se esse homines Pipini et Chulduchi et tuco proficisci soire ad servitium domini suorum, quando alii pagantes in exercitu perseque debent", cap. vii: "Sunt etiam ali qui remansunt et discunt quod seniores eorum doni residenci et decheant cum eorum senioribus pergenae, ubiuncunque iussius dominii imperatorum fuerit. Alii vero sunt qui iideo se commendant ad aliquos seniores, quot sciant in hostias non proficiscant." 131 Boretius, op. cit. no. 74, cap. vii (see above, p. 265, n. 59). The lack of enthusiasm shown by many vassals in fulfilling their military obligations appears clearly in cap. v: "Quiunque ex his qui beneficiarius principis habet parum suum contra hostes communes in exercitu pergerit dimiserit et cum eo ire vel stare voluerit, hancem suam et beneficiolium perdas." Cap. ix shows us non-royal vassals also evading military service, often with the complicity of their lord or of the count; see above, p. 168, n. 104. 132 The subject of this article was that studied in my seminar for medieval history at the University of Ghent during two terms of the academic year 1938-39: Mills, Sevens, Snisseeat and Van Tonerloo, MM. Aernouts, De Bruyne, Maertens, Thijs, Van de Voorde and Van Kerrebrouck, took part in the researches it entailed. Some aspects of it were made the subject of a paper read at the Journées d'Histoire du Droit at Dijon on 30 May 1939. The translation is the work of Mr F. Grierson, to whom I am indebted for a series of notes and corrections in the text.