

**THE PERIOD OF THE MEROVINGIAN-FRISIAN GOLD SOLIDUS AND  
THE ANGLO-FRISIAN SILVER PENNY  
(c.600-c.780)**

**3.1 On the *Lex Frisionum* as an historical source**

In this Excursus the reliability of the *Lex Frisionum* as a source for this study is analysed.

The most original surviving text of the *Lex Frisionum* is the edition printed in Basle by Herold in 1557. Its model was apparently lost after this printing. Eight centuries may separate this printed text and its original first draft. We do not know whether Herold's model was this original first draft. Like most of the judges' books in Frisia, the original may have been copied and adapted many times since its creation, and Herold's model may have been the last of a series of copies. Hence we must wonder whether it contains any information at all from the time of its creation. The editor himself, Herold, would also have adapted the text in preparation for printing. For instance, what were probably glosses in the model have been incorporated into the text, but in what way?

The document has been studied by many scholars since its first publication. Siems reviewed their comments in a thoroughgoing study of the *Lex Frisionum* in 1980.<sup>1</sup> He supplemented these comments with his own considered view. On the document itself he concludes:<sup>2</sup>

- it is not a falsification;
- the division of the text and the headings are Herold's;
- the typographical errors are not very well corrected;
- the model was probably a manuscript containing other Germanic customary laws as well as the *Lex Frisionum*.

The text is rather confusing and open to much discussion. Siems' conclusions concerning the text can be summarised as follows:<sup>3</sup>

- it is a text made for the purpose of conceiving statutes for Frisia as a whole, with different regulations for the different parts of Frisia where necessary;

<sup>1</sup> Siems, *Studien*, 44-222.

<sup>2</sup> *Ibidem*, 115-128.

<sup>3</sup> *Ibidem*, 366-371.

- the original plan was changed during the process of writing, and hence it lacks consistency and was not yet ready for use;<sup>4</sup>
- the lay-out suggests unjustly separate parts; it should be viewed as a whole
- it was drafted after 785, probably in relation to the legalisation of the customary laws of the peoples under Charlemagne's rule in 802-803 at the Diet in Aken;
- it contains law in transition from, among other things, heathen to Christian inspiration and - important for this study - gold-based to silver-based units of account;
- it comprises law with general Germanic, special Frisian and royal Frankish elements.

According to Siems, the model for the printed text in 1557 was very close to the original document.<sup>5</sup> The inconsistency of the amounts in the compensation register of the *Lex* is characteristic of the inconsistency found in high and late medieval judges' books. These inconsistencies are ascribed to additions made to a manuscript and amendments made during the copying process. These changes are perfectly understandable in the light of the purpose of those books: they were a means of support for the administration of justice, to be consulted in lawsuits and to be adapted in cases of new sentences. However, such a view of the *Lex* - it being the result of adaptations since c.800 - is confronted with two major objections:

- it was apparently not ready for use;
- with a few exceptions the amounts are still quoted in *solidi* as gold-based, antiquated units of account, which would not have been used for very long after the Carolingian period.

These objections may be exacerbated by the addition of a third one. According to Siems, there are reasons for believing that the model for Herold's edition was a manuscript containing not only the *Lex Frisionum* but also other Germanic customary laws.<sup>6</sup> A manuscript, containing other Germanic customary laws besides the *Lex Frisionum*, would not have been of much use in Frisia. It would have had its uses - if it was used at all - in royal or imperial courts.<sup>7</sup> The adaptations and innovations of the Frisian administration of justice since c.800 are unlikely to have arrived in these courts in such a way as to facilitate the adaptation and supplementation of the *Lex*. For instance, there is no trace of the influence of Viking raids, though these did influence Frisian law.<sup>8</sup> Moreover, though the surviving Frisian judges' books refer fre-

<sup>4</sup> See also *ibidem*, 352.

<sup>5</sup> *Ibidem*, 221.

<sup>6</sup> *Ibidem*, 120-121.

<sup>7</sup> *Ibidem*, 49-50: Only one text referring explicitly to the *Lex Frisionum* has survived: in a 9th century catalogue of the Remigius abbey in Reims, a codex is listed containing the *Lex Salica et leges Ripuariorum, Frisiorum et Alemannorum*. The codex itself is lost.

<sup>8</sup> Buma, *Westerlauwersches Recht I*, 164-165: In the 20th *landriocht* it is regulated that a Frisian be not prosecuted for crimes committed as a captive of the Vikings.

quently to old rights and habits, and though the compensations mentioned in these books have roots that are recognisable in the recordings of the *Lex*, they never refer *expressis verbis* to the *Lex Frisionum*. It is therefore doubtful whether any copy of it was present in Frisia during the early Middle Ages.<sup>9</sup>

The inconsistencies in the *Lex* must be ascribed to occurrences in the genesis of the *Lex* itself. The sources from which it was recorded would have been the memories of people concerned with justice administered in different places and at different times; documents on Frisian law made before the *Lex* are unknown and have probably never existed. Furthermore, errors may have occurred during the recording process as memories delivered in the Frisian language were translated into Latin.

Herold's *Lex Frisionum*, then, can be considered as close to the original text of around 800 and hence may be used, with reservation, as a reliable source of information on the units of account in Frisia at the end of the 8th century.

### 3.2 On the different kinds of money of account in the *Lex Frisionum*

This Excursus tries to analyse the different kinds of money mentioned in the *Lex Frisionum*, to determine how they should be defined.

The money used in the *Lex Frisionum* has engaged the attention of many scholars. The subject is challenging because in several places the expressions regarding the money of account are problematic. The number of different opinions almost equals the number of scholars concerned. Siems has given a clear review of these opinions,<sup>10</sup> and he concludes that a convincing general solution to the problems concerning the money in the *Lex* still awaits us; but he finds that, for the most part, the money of account is a *solidus*, constituted of 3 *tremisses* or *denarii*.<sup>11</sup> This money of account is probably gold-based. Furthermore, it seems likely that amounts expressed in this gold-based money of account are converted in the *Lex* itself to a silver based money of account. This is done by multiplying the amounts by 3.<sup>12</sup> It is true that the gold-

<sup>9</sup> Siems, *Studien*, 120, note 34: the reference to the Frisian law (*euua Fresonum*) made in an interpolation in a text concerning a gift by Folkmar to the monastery of Werden in 855 (Kötzschke, *Rheinische Urbare*, II A, 10; also note 3) does not imply that these *euua Fresonum* are to be identified with the *Lex Frisionum*, for the *Lex* does not include regulations concerning that subject (the conveyance of real property).

<sup>10</sup> *Ibidem*, 232-265.

<sup>11</sup> *Ibidem*, 251-252: The identity of *tremisses* and *denarii* in the *Lex* is without doubt. These words are used interchangeably. This is demonstrated, for example, in LF, 131 (Main Part, Title I, §10, gloss): *Inter Laubachi et Wisaram Weregild. nobilis CVI. solidi et duo denarii, liberi LIII. solidi et denarium. liti XXVI. solidi et dimidius, et dimidius tremissis.*

<sup>12</sup> *Ibidem*, 264-265.

based money in the *Lex* was no longer current in around 800, but it may still have been used as a measure of value.<sup>13</sup> I fully agree with these conclusions.

However, there remain problems to be solved. Before dealing with these, a preliminary remark must be made. The *Lex Frisionum* is in two parts. The first part has no particular heading, and I shall therefore denote it as the ‘Main Part’; the second is headed *Additio*. Each part is subdivided in ‘Titles’ (= sections). The numbering of the Titles in the *Additio* begins afresh with the number I.

The following kinds of money are mentioned in the *Lex*:

- (a) On the whole the amounts are quoted in *solidi*; each *solidus* consists of 3 *tremisses*, which are sometimes called *denarii*.
- (b) One Title in the Main Part expresses amounts in pounds and ounces *per veteres denarios*.
- (c) One clause in the *Additio* mentions Frisian pennies (*denarijs Fresionicis*).
- (d) A few glosses in the Main Part and Titles in the *Additio* mention new money (*novae monetae*).

(a) The texts in *solidi* and *tremisses/denarii*.

There are good reasons for believing that the *solidus* in the *Lex* refers to the old Merovingian gold *solidus*, as we have seen.<sup>14</sup> We have also seen that, by means of a simple trick, the amounts in gold *solidi* could be converted into amounts in *solidi*/shillings, equivalent to 12 silver pennies. The conversion could be accomplished simply by multiplying the original amounts in gold money by 3. This trick is found in a large part of the *Additio*. For example: If an ear is cut off completely, the compensation is ‘three times 12 *solidi*’.<sup>15</sup> Here 12 old gold *solidi* were converted into 36 new *solidi*/shillings (equivalent to 12 silver pennies each).

(b) The Title expressing amounts in pounds and ounces.

Pounds and ounces are multiple units of a system of account based on silver pennies. Their mention in the *Lex*<sup>16</sup> is specifically in the context of East Frisia.<sup>17</sup> The expression *veteres denarios* refers to coins that are still in circulation but no longer legal tender; they are hence valued as bullion.<sup>18</sup> As East Frisia had only recently been conquered by Charlemagne, it seems obvious that at least a substantial number of these pennies must have been the Anglo-Frisian pennies originally intended to con-

<sup>13</sup> *Ibidem*, 250.

<sup>14</sup> Chapter 3, ‘The history of the measure of value’.

<sup>15</sup> LF, 144 (*Additio*, Title III, §9: *Si auris ex toto abscissa fuerit, ter XII.solidis componatur*).

<sup>16</sup> LF, 137-138 (Main Part, Title XIV, §4 ff. and Title XV).

<sup>17</sup> *Ibidem*, 137 (heading above Title XIV §4 and following §§)

<sup>18</sup> Schrötter, *Wörterbuch der Münzkunde*, s.v.*denarii antiqui, d.veteres, d.novi*.

tain c.1.3g of silver. Consequently, a pound in old money must have been worth slightly less than a pound in new money. This can be verified by comparison of the East Frisian amount of compensation for homicide quoted *per veteres denarios* in this Title of the Main Part with the likewise East Frisian wergeld amount mentioned in a gloss elsewhere in the Main Part.<sup>19</sup> The first amount is  $5\frac{1}{2}$  pounds *per veteres denarios* and the second one, provided that the kin's share is excluded,<sup>20</sup> is  $\frac{2}{3}$ rd of  $53\frac{1}{3}$  *solidi* or  $\frac{2}{3}$ rd of  $3 \times 53\frac{1}{3} = 106\frac{2}{3}$  *solidi*/shillings =  $106\frac{2}{3} : 20 = 5\frac{1}{3}$  pounds *novae monetae*. The difference in the value of bullion and legal tender accounts for the difference between  $5\frac{1}{2}$  pounds old money and  $5\frac{1}{3}$  pounds new money (c.3%).

The objection could be made that this part of the *Lex* refers not to pounds of account but to pounds in weight, in which case the pounds could as easily be the 'heavy' Carolingian as the 'light' Roman pound. A pound *veteres denarios* would then be simply a quantity of silver. However, this interpretation seems unlikely because in the same part of the *Lex* concerning East Frisia a fine is expressed in pounds, a pound being defined as 20 *solidi*.<sup>21</sup> This cannot be a reference to pounds of weight; hence it must have been 20 *solidi*/shillings; that is, money of account.<sup>22</sup> Moreover, the expression *librae V.& dimidia, per veteres denarios* would be redundant if it only referred to silver.

### (c) The Frisian pennies.

At one place in the *Lex*, in the *Additio* where Wleamar's laws are formulated, *denarijs Fresonicis* are mentioned.<sup>23</sup> The compensation to be paid for scratching someone is set at  $3 \times 10$  Frisian pennies. Could these *denarii* be the same as those used throughout the *Lex - tremisses*? That is a possibility, but in that case an amount of 10 *denarii* is more likely to have been quoted as 3 *solidi* and 1 *denarius*. This would be a high amount for so small an injury. Apparently, the intended amount was even less than 1 *tremissis* (which was equivalent to 12 silver pennies), and therefore these pennies are most likely to have been the Frisian silver pennies that were struck from the end of the 7th century onwards; they were like the English pennies and in this study are denoted as Anglo-Frisian pennies; they are often referred to as 'sceattas'. There is no surviving indication of their silver equivalence as measure of value. As coins they

<sup>19</sup> LF, 131 (Main Part, Title I §10).

<sup>20</sup> This manipulation is accounted for in Excursus 3.3: 'On the silver equivalence of the wergeld in the *Lex Frisionum*'.

<sup>21</sup> LF, 138 (Main Part, Title XIV §7).

<sup>22</sup> A pound of 20 old gold *solidi* would imply  $20 \times c.4g = c.80g$  of gold  $\approx 12 \times 80g = 960g$  of silver, if the silver:gold ratio was 12 conventionally; this far exceeds the silver equivalence of either the Roman or the Carolingian pound (c.327g and c.425g respectively; Morrison, "Numismatics", 417-418), and a much lower silver:gold ratio is unlikely (See Chapter 4, 'Economic Analysis').

<sup>23</sup> *Ibidem*, 146 (*Additio*, Title III, §44).

may have been equivalent to c.1.3g of silver at the beginning (around 660-670), but by the second quarter of the 8th century their weight would have slightly decreased.<sup>24</sup>

This view may be challenged on the grounds that in this part of the *Lex* the transition of the money of account from the gold *solidus* to the shilling (æ 12 silver pennies) was in operation; this was done by multiplication by 3, as 1 gold *solidus* was equivalent to 3 shillings, but such an operation would be mistaken if applied to Frisian silver pennies. However, the tripling in this case might well have been a slip of the pen, easily made towards the end of a series of about 40 amounts in gold-based units of account being tripled successively.<sup>25</sup> Such a lack of care would in fact lend support to the view that the *Lex* was only a provisional draft.

(d) New money.

With reference to b (above), we have already found that ‘new money’ must refer to the pre-reform Carolingian pennies of c.1.3g each. This finding is elaborated in Chapter 4, ‘The history of the measure of value’. Let us investigate how this new money appears in the *Lex*.

The *Additio* describe, among others, laws formulated by a ‘wise man’ called Wlemar. The amounts in this part are also quoted in *solidi*. These have to be multiplied by three,<sup>26</sup> the trick used to convert amounts in old gold *solidi* into new *solidi*/shillings, as we have seen. This was the proceeding in Mid-Frisia. It is confirmed in another part of the *Additio* dealing with the laws of Wlemar,<sup>27</sup> where a gloss states:

*Inter Laubachi et inter Flehi. tres denarij nouae monetae solidum faciunt.*

This expression can be considered as being in accordance with the conversion rate of 3 found in the other texts of Wlemar, although it seems enigmatic. From what we know about *solidi* or pennies or new money in the 8th century, this text would be incomprehensible if it meant ‘3 pennies new money are equivalent to 1 *solidus*’.<sup>28</sup> It

<sup>24</sup> See Chapter 3, ‘The history of the means of payment’.

<sup>25</sup> Siems, *Studien*, 263 observes that this is a place in the *Lex* where the amount to be multiplied is over the threshold of 3 *denarii*. The mention of ‘Frisian’ *denarii* is also remarkable; they therefore elude further determination.

<sup>26</sup> This multiplication procedure begins with Title III of the *Additio*. Siems, *Studien*, 367 is of the opinion that this method has to be applied to Title I and II of the *Additio* as well. Herold would have erroneously used a gloss for a heading on Title III. According to this gloss, the amounts in the text should be tripled. From Title II §8 the text begins to add the word *ter* to the amounts. As Siems views it, the multiplication procedure was ‘invented’ at that stage of making the manuscript. In this I disagree with Siems. As I see it, there was good reason to distinguish parts with from parts without multiplication by 3. My view is developed in the following pages.

<sup>27</sup> LF, 146-148 (*Additio*, Title III, from §76 onwards, Title IV, V and VI).

<sup>28</sup> Siems, *Studien*, 259-260: The word *denarius* has also been used to denote a weight. So, the text in view might alternatively be read as: ‘the weight of 3 coins new money (= silver) is the weight of a *solidus*’ (= gold). This, however, does not clarify the expression.

must therefore be assumed that ‘*denarij novae monetae*’ means ‘shillings new money’. This interpretation becomes obvious if we try to imagine how the phrase came about. It was originally formulated in Old Frisian, we may assume. The formulation would have been something like: ‘between the Lauwers and the Fli 3 shillings new money are equivalent to 1 *solidus*’. This would have caused a problem for the Latin translator because, at first sight, the translation would have been: *Inter Laubachi et inter Flehi. tres solidi nouae monetae solidum faciunt*; since this would have sounded like nonsense he would have needed to use another translation for ‘shilling’. We have seen that in the *Lex* the word *tremissis* was often substituted by the word *denarius*, and because a worthwhile *tremissis* was equivalent to a shilling in Frisia it is quite conceivable that the translator used the word *denarius* again. After all, this *denarius* = *tremissis* = Frisian ‘shilling’ had been a real (gold) coin. What the gloss expresses, in other words, is: 3 *solidi*/shillings in new money æ 1 old *solidus*.

In an intersection in the *Additio* concerning laws formulated by an other ‘wise man’ called Saxmund,<sup>29</sup> a gloss indicates a deviation from this multiplication by 3. It states that the new *solidus* is reckoned at  $2\frac{1}{2}$  *denarii* in West Frisia and at 2 *denarii* in East Frisia:

*Inter Flehi et Sincfalum solidus est duo denarij et dimidius ad nouam monetam. Inter Vuisaram et Laubaci. duo denarij noui solidus est.*<sup>30</sup>

What lies behind these manipulations? Even to attempt an explanation requires knowledge of currency and money as measure of value, insight into the composition of the *Lex Frisionum* and some knowledge of the history of compensations in Frisia. If we understand these expressions as being analogous to the one dealt with in the previous Title, we can conclude that in West Frisia 1 old *solidus* æ  $2\frac{1}{2}$  new *solidi*/shillings, and in East Frisia 1 old *solidus* æ 2 new *solidi*/shillings. This would imply that, in these parts of Frisia, either the gold *solidus* had a lower gold content or the shilling had a higher silver equivalence than in Mid-Frisia. However, there is no numismatic or other indication to confirm this.

But there are indications of differences in compensations for different regions. The trick that was used to convert money amounts in old gold *solidi* into new *solidi*/shillings could also be used to take regional differences in compensation systems into account. This is discussed in the next Excursus.

<sup>29</sup> LF, 147 (*Additio*, Title III, §59-§75).

<sup>30</sup> *Ibidem*, 147 (*Additio*, Title III after §73).



### 3.3 On the silver equivalence of the wergeld in the *Lex Frisionum*

In this Excursus an attempt is made to define the silver equivalence of ‘the’ wergeld in the *Lex Frisionum*, it being the foundation of the normal wergeld referred to in the wergeld hypothesis; see Chapter 1, ‘The wergeld hypothesis’, and Excursus 1.1.

For these purposes the silver penny is assumed to be equivalent to c.1.3g of silver, and the silver:gold ratio is assumed to be conventionally 12. The consequences of an actually fluctuating silver:gold ratio are (partly) reflected in a fluctuating gold equivalence of the silver penny itself; hence, as long as the gold-based unit of account, the *solidus*, was predominant, the wergeld expressed in silver pennies must have been roughly in balance with the gold equivalence of the wergeld and the actual silver:gold ratio.<sup>31</sup>

When referring to ‘the’ wergeld in the *Lex Frisionum* we must first define precisely which wergeld was meant because (a) wergeld in the *Lex* is differentiated socially (*i.e.* for the nobleman, freeman and serf); (b) there is a difference between compensation for homicide including and excluding kin’s share, and (c) the compensation for homicide in Frisia is differentiated geographically (*i.e.* for West Frisia, Mid-Frisia and East Frisia).

#### (a) Social differentiation.

‘The’ wergeld in this study will always be the wergeld of the freeman<sup>32</sup> unless another meaning is explicitly mentioned. This is in accordance with the epilogue to the Main Part of the *Lex*, which takes the amounts for the freeman as basic; the compensations for the noblemen are to be raised proportionately, and those for the serf are to be lowered proportionately.<sup>33</sup> This procedure is repeated in the *Additio*.<sup>34</sup> Also, the wergeld mentioned in documents on Frisia from later in the Middle Ages is the wergeld of the freeman, according to almost anyone who has written on the subject.<sup>35</sup> The compensation for slaying a Frisian by a Ripuarian is, in the *Lex Ribuarica* (the Latin record of common law valid among the Ripuarian Franks), an amount equivalent to

<sup>31</sup> The wergeld in the LF was  $\frac{2}{3} \times 53 \frac{1}{3} = 35 \frac{5}{9}$  *solidi*  $\approx 35 \frac{5}{9} \times 3.9\text{g} = 138.67\text{g}$  of gold. If the silver:gold ratio is 12, then 1 silver penny of 1.3g of silver  $\approx 1.3\text{g} : 12 = 0.1083\text{g}$  of gold; hence the wergeld expressed in silver pennies is  $138.67\text{g} : 0.1083\text{g} = 1,280$  silver pennies =  $5 \frac{1}{3}$  pounds. But if the silver:gold ratio was 14, then 1 silver penny of 1.3g of silver  $\approx 1.3\text{g} : 14 = 0.09285\text{g}$  of gold, and the wergeld expressed in silver pennies would be  $138.67\text{g} : 0.09285\text{g} = 1,493$  silver pennies = 6.22 pounds. The result would be 4.44 pounds if the silver:gold ratio was 10.

<sup>32</sup> In the high and late Middle Ages the free Frisian and/or freeholder represent the early medieval freeman.

<sup>33</sup> *Ibidem*, 143.

<sup>34</sup> *Ibidem*, 147 (*Additio*, Title III §§ 71-73).

<sup>35</sup> Jaekel, *Forschungen*, 43.



the homicide compensation of the freeman in the *Lex Frisionum*.<sup>36</sup> We may conclude that, if a compensation mentioned in Frisia is not otherwise specified, the compensation of the freeman is being referred to.

(b) Wergeld including and excluding kin's share.

According to the *Lex Frisionum*, the compensation for homicide of the freeman in Mid-Frisia was  $53\frac{1}{3}$  *solidi*.<sup>37</sup> A gold *solidus* in the *Lex* was equivalent to 3 *solidi*/shillings (æ 3 x 12 silver pennies).<sup>38</sup> This compensation amount of  $53\frac{1}{3}$  *solidi* probably constituted two parts:  $\frac{2}{3}$ rd for the heirs of the killed and  $\frac{1}{3}$ rd for the other kin.<sup>39</sup> No special terms for these parts are mentioned in the *Lex*. We do find them in Old Frisian sources: '*ield*' for the  $\frac{2}{3}$ rd part for the heirs and '*meitele*' for the  $\frac{1}{3}$ rd share of the kin, and in Low Saxon sources as '*ghelt*' or '*manghelt*', corresponding to *ield*, and '*maechtael*', corresponding to *meitele*; the subject is extensively dealt with in Excursus 1.1. Since the *Lex* does not differentiate the parts terminologically, its text is not clear. As explained in Excursus 1.1, I use the word 'wergeld' only to mean *ield*/*manghelt* (*i.e.* the kin's share excluded), the words 'total compensation for homicide' when the kin's share is explicitly included and the words 'compensation for homicide' in the more general sense (*i.e.* if it comprises both wergeld and total compensation, or if the specific meaning is not clear).

So, the total compensation for homicide for the freeman, according to the *Lex*, was 160 shillings = 160 x 12 = 1,920 silver pennies, and his wergeld was  $\frac{2}{3}$  x 160 shillings =  $\frac{2}{3}$  x 160 x 12 = 1,280 silver pennies. Because the silver equivalence of the penny was c.1.3g,<sup>40</sup> it follows that the silver equivalence of the wergeld of the freeman would have been 1,280 x c.1.3g = c.1,664g in around the year 800.

(c) Regional differences.

There were also regional differences in the compensations. Siems pays attention to these in so far as they affect the proportions of compensations according to social status. He considers the *Lex Frisionum* as a whole, with special exceptions for regional differences in West Frisia or East Frisia. These regional differences appear sometimes in glosses and sometimes in intersections. East Frisian rules are found in intersections indicated either as East Frisian or as rules given by the 'wise man' Wleamar.

<sup>36</sup> MGH LLnG, III, 92 (§40.4). See also Chapter 3, 'The history of the measure of value'.

<sup>37</sup> LF, 131 (Main Part, Title I, §6 among others)

<sup>38</sup> See Chapter 3, 'The history of the measure of value'.

<sup>39</sup> Siems, *Studien*, 286: This constitution, however, is certain only for the nobleman (Main Part, Title I §1). It is generally assumed also to be valid for the freeman and possibly for the serf, though the *Lex* does not provide evidence. The assumption is defended by Von Amira, *Erbenfolge*, 142.

<sup>40</sup> See Chapter 3, 'The history of the means of payment'.

West Frisian rules are covered in a similar way; in this case Siems assumes that it was the ‘wise man’ Saxmund who gave the rules.<sup>41</sup>

However, there are also regional differences in the conversion of the compensation amounts into silver money (new money). In the *Additio*, at the end of the compensation register, it is stated in what was probably a gloss:

*Inter Laubachi et inter Flehi. tres denarij nouae monetae solidum faciunt.*<sup>42</sup>

As I have suggested,<sup>43</sup> this should be read as: In Mid-Frisia an (old) *solidus* is equivalent to 3 *solidi*/shillings in new money. Amounts in old *solidi* should be converted into new *solidi*/shillings by multiplication by 3. If this is applied to the homicide compensation for the freeman in Mid-Frisia of  $53\frac{1}{3}$  *solidi*, the result is:  $3 \times 53\frac{1}{3}$  old (gold) *solidi* æ 160 new *solidi*/shillings, as we have seen.

The case of East Frisia seems more problematic. In some places the compensation for homicide is given as  $53\frac{1}{3}$  *solidi*,<sup>44</sup> as in Mid-Frisia, but elsewhere it is given as  $5\frac{1}{2}$  pounds *per veteres denarios*,<sup>45</sup> and a curious ‘gloss’ near the end of the compensation register in the *Additio* informs us that

*... inter Wisaram & Laubaci. duo denarij novi solidus est.*<sup>46</sup>

The amount of  $5\frac{1}{2}$  pounds of worn silver pennies, considered as bullion, is probably equivalent to  $5\frac{1}{3}$  pounds of current silver pennies, taking cost of minting (3%) into account.<sup>47</sup> The silver equivalence of these  $5\frac{1}{3}$  pounds ( $= 20 \times 5\frac{1}{3} = 106\frac{2}{3}$  shillings) is equal to the silver equivalence of the wergeld in Mid-Frisia ( $\frac{2}{3}$ rd of the total compensation for homicide, that is  $\frac{2}{3} \times 160$  shillings =  $106\frac{2}{3}$  shillings). The curious ‘gloss’ may tell us, as shown in the previous Excursus, that 1 old *solidus* æ 2 new *solidi*/shillings.<sup>48</sup> If, accordingly, we calculate the amount of  $53\frac{1}{3}$  *solidi* using 2 instead of 3, it results in a silver equivalence of  $2 \times 53\frac{1}{3} = 106\frac{2}{3}$  *solidi*/shillings =  $12 \times 106\frac{2}{3} = 1,280$  silver pennies æ  $1,280 \times 1.3\text{g} = 1,664\text{g}$  of silver. It therefore seems to me that the curiosity of the gloss is not as great as it appears; it is simply an 8th century way of expressing something like: ‘in East Frisia a reduction of  $33\frac{1}{3}\%$  is applied.’ It is assumed here that the reason for this reduction is the exclusion of the kin’s share. This may be ascribed to special circumstances. The clauses of the *Lex* that gave the wergeld and compensations in East Frisia seem to rule out legal interfe-

<sup>41</sup> Siems, *Studien*, 365-367.

<sup>42</sup> LF, 146-148 (*Additio*, Title III, from §76 onwards, Title IV, V and VI).

<sup>43</sup> See Excursus 3.2: ‘On the different kinds of money of account in the *Lex Frisionum*’

<sup>44</sup> LF, 131 (Main Part, Title I, §3).

<sup>45</sup> *Ibidem*, 133 (Main Part, Title XV, §2).

<sup>46</sup> *Ibidem*, 147 (*Additio*, Title III, after §73).

<sup>47</sup> See Excursus 3.2: ‘On the different kinds of money of account in the *Lex Frisionum*’.

<sup>48</sup> 2 *denarij novi* = 2 worthwhile *tremisses* in new money.

rence (feud) by the kin of the victim. If this is the case, there was no obligation to buy out the feud actions of this kin. To replace that, a payment to the administration of justice might well have been exacted, and this indeed is what the *Lex* claims in a clause concerning East Frisia: 3 pounds *i.e.* 60 *solidi*/shillings for keeping peace, to be paid to the king.<sup>49</sup> The exclusion of the kin's share with reference to compensation for homicide was usual in later ages, and it may be that, here too, a transition from ancient feud habits to the public administration of justice was at work.

If this is the correct explanation for the difference between the amounts of compensation for homicide in East Frisia, the problem is still not completely solved because the curious gloss about the conversion rate in East Frisia (multiply by 2 instead of 3) was not restricted to manslaughter. In cases of manslaughter there was always the possibility of feud and hence a justification for the kin's share. But a feud over all kinds of injuries - including small ones - seems unlikely, and hence the existence of a kin's share for small injuries seems unlikely.<sup>50</sup> So the compensations must have been divided into those for 'feud cases' and those for 'non-feud cases'. The trick - multiplication by 2 - could not have been applied in the 'non feud cases'. As I see it, however, the layout of the *Lex* permits this interpretation because the curious gloss with this factor of 2 is made in or near the Title regarding compensations for injuries in the *Additio*.<sup>51</sup> In this Title there are many clauses in which the compensation amounts explicitly have to be tripled, but in some clauses this tripling is omitted. All of these concern injuries that might be considered as 'feud cases': cutting off a hand or a foot, blowing out an eye, and similar cases.<sup>52</sup> So my interpretation would be that the gloss with a multiplication factor of 2 regards all cases in the Title concerned with the exception of those in which the amount is explicitly tripled.<sup>53</sup> In other words, the compensation in the 'feud cases' is reduced to exclude the kin's share, but it is not in the 'non feud cases', where there was no traditional kin's share.<sup>54</sup>

<sup>49</sup> LF, 138 (Main Part, Title XIV §7).

<sup>50</sup> Brunner, *Deutsche Rechtsgeschichte I*, 88.

<sup>51</sup> LF, 144-148 (*Additio*, Title III).

<sup>52</sup> The cases are: cutting off hands and fingers (LF, 143-144: *Additio*, Title II, §§ 1-10); cutting off feet and toes (LF, 144: *Additio*, Title III, §§ 1-4); blowing out eyes (LF, 147: *Additio*, Title III, §59), and perhaps cutting out the tongue (LF, 147: *Additio*, Title III, §74).

<sup>53</sup> This theory implies an opinion about the composition of the text differing from that of Siems' (*Studien*, 219-220). He views the heading '*hoc totvm in triplo componatvr*' over Title III as originally a gloss, which has been changed into a heading by the editor, Herold. This may be true, but this does not imply, as Siems suggests, that the tripling was intended to be applicable to *Additio*, Title II and Title III before §8 (the point at which the explicit tripling begins); that is, to the Titles that may have been 'feud-cases'.

<sup>54</sup> Jesse, *Quellenbuch*, 5. It seems that a similar operation is applied in the *Lex Saxonum*. It is stated that:

66. *Solidus est duplex: unus habet duos tremisses, quod est bos anniculus 12 mensium, vel ovis cum agno; alter solidus tres tremisses, id es bos 16 mensium; maiori solidio aliae compositiones, minori*

The differences for West Frisia are even more problematic. What is probably a gloss to Title I of the Main Part of the *Lex* (concerning compensations for homicide) states:

*Inter Fli et Sincfalām Vuerregildus nobilis C. solidi liberi L. liti XXV. solidi denarij III. noua monetae.*

This gloss may be understood by interpreting it in the same way as we did in similar cases for Mid-Frisia: the compensation amount has to be converted by multiplying each *solidus* by 3, thereby reckoning it as 3 *denarii* = 3 *tremisses* = 3 new *solidi*/shillings. However, instead of  $53\frac{1}{3}$  *solidi*, the old amount is now 50 *solidi*, and we do not know why.<sup>55</sup> The amount of 50 *solidi* might be older than the amount of  $53\frac{1}{3}$  *solidi* and hence have originated in a somewhat heavier *solidus*.<sup>56</sup> A curious ‘gloss’, again in the *Additio* Title III (concerning compensations for all kinds of injuries), states:

*Inter Flehi et Sincfalām solidus est duo denarij et dimidius ad nouam monetam.*<sup>57</sup>

This gloss may be understood in a similar way to the aforementioned case of East Frisia:<sup>58</sup> it concerns only the feud cases; but this would imply a factor 2 if, as in East Frisia, only exclusion of the kin’s share was aimed at. The factor of  $2\frac{1}{2}$  may refer to special circumstances in West Frisia. This part of Frisia had been under Frankish rule since 719, and so the law may have been adapted to Salic conventions. In the *Lex Salica* the compensation for homicide was 200 silver shillings. This amount included 40 shillings *fredus* - payment to the authorities for maintaining the peace.<sup>59</sup> In Frisia the *fredus* is stated at 30 (new) *solidi*/shillings.<sup>60</sup> If in West Frisia the kin’s share was removed, as in East Frisia, and the *fredus* was then added, the compensation for homici-

*homicidia componatur.* [i.e. The *solidus* is twofold: one has two *tremisses*, that is a 12 months old cow, or a sheep with lamb; the other has three *tremisses*, that is a 16-month old cow; with the major *solidus* other compensations are settled, with the minor *solidus* manslaughters.]

Here too, as in East Frisia, the wergeld for the ‘feud cases’ (*homicidia*) is reduced, possibly to exclude the kin’s share which was not obligatory in ‘non feud cases’ (*compositiones*), these having no traditional kin’s share. Similarity in the treatment of East Frisia and Saxony in around 800 would not be surprising, taking into account their recent common history.

<sup>55</sup> Scholten, “De Lex Frisionum”, 44, relates the difference in wergeld between West Frisia (50 *solidi*) and Mid-Frisia and East Frisia ( $53\frac{1}{3}$  *solidi*) in the *Lex Frisionum* to the difference in weight of the silver pennies in Frisia Citerior and Frisia Ulterior:  $(50 : 53\frac{1}{3}) \times 1.7\text{g}$  (Frisia Citerior) = 1.59g (Frisia Ulterior). This difference might indeed have been more-or-less noticeable at the end of the 9th century (See Chapter 4: ‘The means of payment’); that is, about a century after Charlemagne’s interference in the barbarian laws. So, if Scholten’s opinion was true, this would imply that the glosses were added long after the *Lex* was drafted. (See also Excursus 3.1: ‘On the *Lex Frisionum* as an historical source’ and Excursus 3.2: ‘On the different kinds of money of account in the *Lex Frisionum*’).

<sup>56</sup> See Excursus 3.4: ‘On the origin of the compensation amounts for homicide in the *Lex Frisionum*’.

<sup>57</sup> LF, 147 (*Additio*, Title III, after §73).

<sup>58</sup> *duo denarij et dimidius ad novam monetam* =  $2\frac{1}{2}$  worthwhile *tremisses* in new money.

<sup>59</sup> Siems, *Studien*, 279-282

<sup>60</sup> LF, 138 (Main Part, Title XVI). It might be argued that this amount should still be converted into silver-based shillings, by tripling. But the general opinion is that this *fredus* was already expressed in silver-based shillings (Siems, *Studien*, 283).

de would be  $136\frac{2}{3}$  shillings (or 130 silver shillings, based on the West Frisian homicide compensation amount of 50 instead of  $53\frac{1}{3}$  *solidi*).<sup>61</sup> Since  $2\frac{1}{2} \times 53\frac{1}{3}$  *solidi* æ  $133\frac{1}{3}$  silver shillings (or  $2\frac{1}{2} \times 50$  *solidi* æ 125 silver shillings), the difference might simply have been neglected.

The problems posed by West Frisia mean that conclusions can only be drawn with reservation. Nevertheless there are sufficient reasons for believing that the wergeld in the *Lex Frisionum* was equivalent to approximately 1,664g of silver and that the total compensation for homicide was equivalent to approximately  $\frac{3}{2} \times 1,664\text{g} = 2,496\text{g}$ .

### 3.4 On the origin of the compensation amounts for homicide in the *Lex Frisionum*

In the *Lex Frisionum* the total compensation for homicide of the free Frisian is  $53\frac{1}{3}$  *solidi*.<sup>62</sup> This is an odd amount. It is true that it may have been derived from the total compensation for homicide of the nobleman - this being 80 *solidi*, the compensation of the freeman being  $\frac{2}{3}$ rd of this amount - but the *Lex* itself specifically states that the compensation of the freeman was the standard,<sup>63</sup> and this was in accordance with other Germanic laws.<sup>64</sup> It may therefore be assumed that  $53\frac{1}{3}$  *solidi* was not the original amount but an adapted amount.

The wergeld of  $53\frac{1}{3}$  Merovingian *solidi* is inconvenient in accounting, even though it fits into the Germanic system of weights. The *solidus* was based on 60 grains (1 grain = a barley corn = 0.065g in our system). The genesis is unknown, but we may assume that the first amount, based on the Germanic weight system, would have been a convenient amount. What would be convenient within this system? Although the Germanic peoples used the dodecimal computation system for compensations - except for those related to compensation for homicide - they assumed the decimal computation system before, or at the time when, their laws were recorded.<sup>65</sup> It follows that we might look for 50 *solidi* as the compensation amount that obtained before the amount of  $53\frac{1}{3}$  *solidi*. A compensation amount of 50 *solidi* would require a *solidus* of 64 grains in order to be equivalent to  $53\frac{1}{3}$  *solidi* of 60 grains of gold.<sup>66</sup> This corresponds to a *solidus* of 4.16g of gold.<sup>67</sup> It so happens that 6th century genuine and imitative Byzantine *solidi* (with *tremisses* to match) of approximately that weight have indeed

<sup>61</sup>  $3 \times 53\frac{1}{3} - 1 \times 53\frac{1}{3} + 30 = 136\frac{2}{3}$ ;  $3 \times 50 - 1 \times 50 + 30 = 130$

<sup>62</sup> LF, 131 (Main Part, Title I, §3).

<sup>63</sup> *Ibidem*, 143 (*Epilogus*).

<sup>64</sup> De Geer, *De Lex Frisionum*, 61, note 22.

<sup>65</sup> Brunner, *Deutsche Rechtsgeschichte II*, 617-618.

<sup>66</sup>  $(53\frac{1}{3} \times 60) : 50 = 64$ .

<sup>67</sup>  $64 \times 0.065\text{g} = 4.16\text{g}$ .

been discovered.<sup>68</sup> The imitative specimens might well have been struck in Frisia around, or shortly after, 575.<sup>69</sup>

Peculiarly, the wergeld amount of 50 *solidi* is actually found in the *Lex Frisionum*. In the text concerning wergeld in Frisia, a gloss informs us that between the Fli and the Sincfal - that is, in West Frisia - the total compensation for homicide of the freeman was 50 *solidi*.<sup>70</sup> It therefore occurs to me that the initial total compensation for homicide of the freeman might have been 50 Byzantine (imitative) *solidi* rather than  $53\frac{1}{3}$  Merovingian *solidi*. If so, this Byzantine *solidus* might well have been the standard for the unit of account that preceded the lighter Merovingian *solidus* - possibly before about 640.<sup>71</sup> This standard could have been fossilised in West Frisia at the same time during the 7th century that it was adapted in Mid-frisia and East Frisia to the Merovingian *solidus*. In East Frisia it was adapted again during the 8th century - to the Anglo-Frisian silver penny.

<sup>68</sup> Jesse, "Noch einmal der Denar", 13; Boeles, *Friesland*, 506-510.

<sup>69</sup> Zadoks, "De eerste muntslag", 9.

<sup>70</sup> LF, 131 (Main Part, Title I, § 10).

<sup>71</sup> Spufford, *Money*, 19