

Joseph DECKERS – Gruit de droit de gruit (1971)

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GRUIT AND GRUIT RIGHT. TECHNICAL AND FISCAL ASPECTS OF BEER PRODUCTION IN THE MEUSE RIVER REGION DURING THE MIDDLE AGES.

Among the many duties levied on breweries in the Middle Ages, one of the most curious and important was undoubtedly that paid by the brewers to obtain the 'gruit' necessary for the preparation of the beer. Despite the relatively large number of studies devoted to it as an ingredient (1) or as a right (2), the problem of 'gruit' remains poorly understood to date.

In the present research, we would like to shed new light on this problem by looking at a few Meuse River area texts, most of which have been neglected by historians of 'gruit'. As far as the ingredient is concerned, we will try to check and complete the generally accepted theory. With regard to the duty levied on it, we will first attempt to determine its importance, then to specify its various aspects; finally, to outline the evolution it underwent between the 9th and 13th centuries.

Before undertaking this study, we thought it useful to take a close look at the terminology as a whole. While this helps us to determine to some extent the nature and function of the product, it also allows us to understand the evolution of the right.

When studying the terminology of 'gruit', it is important to differentiate between the terms used in the sources from the Romance and Germanic regions.

The first term for 'gruit' is found in a Romance-speaking region: *materia* (*cervise*) (3). It appears as early as 974 in a diploma by which Emperor Otto II

1 For the bibliography of the topic, we refer to the work of G. DOORMAN, *De Middeleeuwse brouwerij en de gruit*, La Haye, 1950.

2 The most recent article on this topic is by C. Van De KIEFT, *Gruit en ban*, TIJDSCHR. VOOR GESCH., 1964, p. 158-168.

3 The *materia* is already quoted in a diploma of Otto I in favour of the abbey of Gembloux dated 20 September 946 and confirmed by Otto II on 3 April 979, cf. C. G. ROLAND, *Recueil des chartes de l'abbaye de Gembloux*, Gembloux, 1921, p. 1-8 n° 1 et p. 21-22, n° 8. Both diplomas are forgeries of early date. Indeed, the diploma of Otto I appears in the autograph manuscript of the *Gesta abbatum Gembla, censium* written around 1070-1075 by Sigebert: cf. WATTENBACH-HOLTZMANN, *Deutschlands Geschichtsquellen im Mittelalter*, t. I, fasc. 4., p. 729-730.

grants the bishop of Liège, Notger, various rights in Fosses (4). Later on, the term was used in various forms, notably *maceria* in Nivelles from 1040 (5), *mairia* or *maiera* in Tournai (6) as early as the end of the 11th century.

Among the other spellings encountered are: *maderia*, *maheria*, *mageria* (7) and even *magaria* (8). In Dinant, the colloquial form *maire* is found as early as the middle of the 11th century (9).

In the Romance-speaking regions, there are still other terms used to describe 'gruit'. Thus, in Dinant, as early as 1064, it is known as *polenta cervisie* (10) and in Huy from 1068 as *pigmentum* (11).

The term which later became 'gruit' appeared in Germanic-speaking regions. It is first mentioned in the form *grut* in a diploma of 11 April 999 granted by Emperor Otto III to the church of Utrecht (12). It should be noted that all the terms cited have been used to refer to both the ingredient and the right.

In St-Truiden, the brewery has undergone significant development and the abundance of sources referring to it is such that we can note all the terms that have designated this right over three centuries.

The word 'gruit' appears for the first time in a document issued to the abbey of Sint-Truiden by the bishop of Metz Adalberon III in the wording *scrutum* (13). As H. Pirenne has shown, this is most probably a wrong spelling for *grutum* (14).

4 S. BORMANS and E. SCHOOLMEESTERS, *Cartulaire de l'Église Saint-Lambert de Liège*, t. I, Bruxelles, 1893, n° XIII, p. 18-19.

5 M.G.H., *D. Henrici III*, n° 52, p. 66-68.

6 *Cottinuatio Herimanni*, c. 3 et 5 (M.G.H., SS. t. XIV, p. 318, 319); *Historiae Tornacenses* (ibid., p. 334-335).

See also A. D'HERBOMEZ, *Chartes de l'abbaye de Saint-Martin de Tournai*, t. I, Bruxelles, 1898, p. 5-6, n° 3.

7 See in this regard J-F. NIERMEYER, *Mediae Latinitatis Lexicon Minus*, sub verbo *materia*, p. 661.

8 This form, unknown in medieval Latin dictionaries, is found as early as 1183 in a charter of the abbey of Siegburg. Cf. E. WISPLINCHOF, *Urkunden und Quellen zur Geschichte von Stadt und Abtei Siegburg*, t. I, Siegburg, 1964, p. 163-165, n° 74.

9 F. ROUSSEAU, *Actes des Comtes de Namur de la première race*, Bruxelles, 1937, 3e partie, n° 1, p. 87-91.

10 Cf. above n° 9

11 S. BORMANS et E. SCHOOLMEESTERS, *Notice sur un cartulaire de l'ancienne église collégiale et archidiaconale de Notre-Dame de Huy*, BULL. COMM. R. D'HIST, 4^e série, t. I, 1873, p. 98-100, n° III.

12 S. MULLER et A. C. BOUMAN, *Oorkondenboek van het sticht Utrecht tot 1301*, t. I, Utrecht, 1920, p. 146-147, n° 149.

13 M. GYSSELING et A. C. F. KOCH, *Diplomata Belgica ...*, t. I, 1950, n° 216, p. 364-365.

14 The scribe should have written *servientibus grutum*. Under the influence of the link that struck his ear, he would have written *servientibus scrutum*. Cf. H. PIRENNE, *Scrutum*, BULL. Du CANGE, t. II, 1925, p. 97-98.

This latter term, which is in fact the Latinisation of the word 'gruit', is only mentioned in the middle of the 12th century.

Although until now the 'gruit' right has borne the same name as the ingredient, it sometimes has its own name, as is the case in St. Truiden.

In a Bull of 25 May 1107 (15), the right is described as *cambatum de toto oppido*, a word composed from the radical *camba* (brewery). This can be seen as a first evolution. On the basis of the term used, the right in question would be levied on the brewery.

In a document of 1140 (16), we find the expression *census grutae*. However, when the chronicler reports this fact, forty years later, he refers to the right of 'gruit' as *mala gruta vulgariter appellata Kaedgruyt* (17). This last term (*bad grute*) brings to mind the 'bad customs' characteristic of the feudal banality-dues (18).

In 1255, the abbot William of Rijckel described this right as *pangins* or *pancijns* (19). This term is actually nothing but the Dutch equivalent of *cambagium* (20) which refers to a specific duty levied on the brewery.

First of all, it is important to know exactly what 'gruit' is. Is it a plant, a fruit, a liquid or a substance, and is it made up of one or more elements?

The first hypothesis is that 'gruit' is simply the fermented barley or malt, that is the basic product needed to prepare the wort. This hypothesis, which is quite plausible, has been advocated by the authors of the *Middelnederlands Woordenboek*, Verwijs and Verdam, among others (21), followed by J. Cuvelier in his book about the city of Leuven in the Middle Ages (22). Indeed, if we refer to the etymology of the word 'gruit', we find

15 *Cambatum* is still mentioned in other bulls dated 9 June 1161 and 15 March 117, cf. C. PIOT, *Cartulaire de l'abbaye de Saint-Trond*, t. I, Bruxelles, 1870, p. 29-33, n° xxii; p. 97-100, n° LXXIV; p. 134-137, n° XCVIII.

We do not find formal proof in the texts of an identity between gruit and *cambatum*. In our opinion, this Latin term, specific to the pontifical chancery, is used to name the right on beer brewing in general. In this particular case, it refers to gruit.

16 C. PIOT, *op. cit.*, p. 58, n° XLIV.

17 *Gesta abbatum Trudonensium* (G.A.T.) cont ; 2, I. 1, c. 2, éd, C. de BORMAN, t. II, p. 12- 13.

18 On the question of *consuetudines* see J. F. LEMARIGNIER, *La dislocation du « pagus » et le problème des « consuetudines »* (Xè-XIè siècles), in *Mélanges L. Halphen*, Paris, 1951, p. 401-410, et L. GENICOT, *Les premières mentions de droits banaux dans la région de Liège*, BULL. CL. DES LET. ET DES SCIENCES MOR. ET POL., 5è série, t. LIV, 1968, p. 56-65.

19 H. PIRENNE, *Le livre de l'abbé Guillaume de Rijckel...*, Bruxelles, 1896, p. 344 (C.R. H.).

20 In the course of our research, we found that this term appeared in the first half of the 13th century. It can easily be broken down into *camba* and *jus*. As well as *pangins* in *pan* and *cijns* (brewery duty).

21 E. Verwijs and J. Verdam, *Middelnederlandsch woordenboek*, t. II, La Haye, 1889, col. 2198-2200 sub verbo *grute*.

22 J. Cuvelier, *La formation de la ville de Louvain des origines à la fin du XIVe siècle*,

that it means peeled grain, coarsely ground grain or grain of sand (23). At first glance, therefore, this explanation seems relevant.

However, while examining the documents, A. Schulte put forward in 1908 another hypothesis which is now accepted by the majority of historians (24). For him, 'gruit' was an amalgam of vegetable products, aromatic substances, herbs or marsh plants. By scrutinising the accounts of some Dutch and German cities, mainly Wesel (25) and Deventer (26), Schulte discovered the list of plants that were used in the composition of 'gruit'. Two plants were the essential element: Brabant or marsh myrtle and wild rosemary. In addition, yarrow, laurel berries, resin and a rare plant from the Alps and the Jura, known under the Latin name of *siler montanum* and Dutch *serpentien*, were added to the mixture.

The plant most commonly used in our regions, gagele, or marsh myrtle, generally grew along the European coasts from Bayonne to Lubeck, along the rivers and mainly along the Rhine. G. Doorman, for his part, has endeavoured to show that gagele grew in abundance in the Teisterbant, a region where 'gruit' is already mentioned before the year 1000 (27). Moreover, although the plants used in the composition of this product can be found as far as the Pyrenees, the southernmost location where its preparation is explicitly mentioned is Cambrai (28). This is easily explained as France belongs almost entirely to the wine and cider realm.

Thus, according to 14th century sources, 'gruit' is a mixture of various plants and herbs that grow mainly in rivers and marshes. Was it the same in the 10th century?

Earlier texts should be found to confirm this. In the unpublished

Bruxelles, 1935, p. 86-88.

23 N. Van WIJK, *Franck's etymologisch woordenboek der Nederlandsche Taal*, 2^e éd., La Haye, 1929, p. 209 et J. DE VRIES, *Nederlands etymologisch woordenboek*, Leyde, 1963, p. 215.

24 A. SCHULTE, *Vom Grutbiere. Eine Studie zur Wirtschafts und Verfassungsgeschichte*, ANN. DES HIST. VER. FÜR DEN NIEDERRHEIN, t. 85, 1908, p. 118-146.

25 Kraus, *Entwicklung des Weseler Stadthausalter 1342-1390*, Wesel, 1907.

26 DOORNINCK, *Cameraars rekeningen van Deventer*, Deventer, 1888.

27 G. DOORMAN, op. cit., p. 8-16. It can be assumed that these plants were found all over the wastelands that were owned by the authority. It should be noted, however, that some of the plants used to make gruit are mentioned in the Capitulary of Villis as having to be part of the estate garden. Cf. M.G.H., *Capitularia Regum Francorum*, éd. BORETIUS-KRAUSE, Hanovre, 1883, *Capitulare de Villis*, paragraphe 70, p. 90.

28 Cambrai is outside the geographical scope of our survey. However, an identical evolution can be observed there. See in this respect *Gestis episcoporum Cameracensium abbreviatis* M.G.H., ss., t. XIV, p. 249; *Vita Lietberti episcopi cameracensis auctore Rodulfo*, t. xxx, pars 2, p. 862, 867. Ainsi qu'un acte de l'official de Cambrai daté du 29 mars 1236 (G. FAGNIEZ, *Documents relatifs à l'histoire de l'industrie et du commerce en France*, t. 1, 1898, p. 145-147, n° 157).

accounts of Parc Abbey in 1293, 'gruit' is put on the same footing as the herbs needed to prepare beer (29).

As far as we know, it is in a Mosan text from 1068 that we can find proof that 'gruit' is made up of a group of aquatic plants. In an act of that year, the bishop of Liège, Théoduin, authorised the brewers of Huy to obtain *pigmentum* (gruit) wherever they wished, because the waters of this locality were not suitable for the cultivation of these plants (30). The motive invoked by Théoduin can probably be explained, as suggested by A. Joris (31), by the strength of the stream of the rivers Hoyoux and Meuse, which prevented the harvesting of these plants in Huy.

Thus, we can conclude that 'gruit' is made from a collection of probably dried marsh herbs and plants which in the Middle Ages were used in the preparation of beer. Consequently, this term should no longer be translated, as has sometimes been done up to now, as *draff* or *gruel*, but as the *material needed to make beer*.

Having explained the nature of the 'gruit', it is now necessary to determine what role it plays in the preparation of the cervoise. In order to understand this function and to be able to link its use to one or other operation, it is useful to summarise the manufacturing processes of this beverage (32).

At present, the preparation of beer involves four essential operations. The first is the conversion of barley into malt: malting (33). The second step is the actual brewing. There are two types of brewing: either the crushed malt is poured into hot water, which is called infusion brewing, or the mixture is boiled and this is called decoction brewing. The resulting liquid is called wort and is heated to 100° for two hours (boiling and hopping) with the addition of hops. The next step is cooling and fermentation. The wort is taken from the boiler and put into cooling tanks. Yeast is added and the wort is left to ferment for between 3 and 15 days. Once these operations are completed, the beer is clarified by filtration and put into barrels (racking). These are the modern methods of beer production.

Were they already practiced in the Middle Ages?

29 Among the expenses of the Rode farm in Léau: ... *pro grues et herba ad cervisiam 4 sol. et 6 den...*; *Rekeningen van de abdij van Park* (1293-1297) (Abbaye du Parc., ms. VII, 20, f° 5 v°).

30 Cf. ci-dessus note 11. *Sed quia Hoyensibus aquis qualia usus eorum expotulat fieri non possunt multis modis cervisarii gravabantur...*

31 A. JORIS, *La ville de Huy au Moyen Age*, Paris, 1959, p. 216, n. 296.

32 J. VENE et H. Le CORVAISIER, *La bière et la brasserie*, Paris, 1950 (Coll. Que sais-je ?) et par E. URION et F. EYER, *La bière. Art et Tradition*, Paris, 1968.

33 Malt is made from germinated and dried barley, from which the germ has been removed.

The essential operations were known in ancient times, but the beverage produced in the Middle Ages was not hopped (34); It will therefore always be known as cervoise. It will only be called a beer when it is brewed with hops (35). This plant was already known in ancient times as a medicinal plant or vegetable. Its virtues in the preparation of beer do not seem to have been put into practice before the 12th century (36) and its use spread especially in the 14th and 15th centuries. The addition of hops to beer was the greatest innovation in brewing of the Middle Ages.

Not only did this product give the beer a better taste, but by killing certain micro-organisms, it made it lighter and clearer. In addition, and most importantly, it increased the shelf life of the beer, allowing it to be traded and transported over longer distances.

To which step of the manufacturing process should the use of 'gruit' be linked?

Here again, as with the composition of gruit, there are two opposing theories: for proponents of the first, gruit is made up of barley or malt grains. It is only a short step from there to attributing to these grains the function of yeast. Moreover, in some texts, 'gruit' is identified with fermentum; thus, in the documents, we find the expressions: *mairia de qua fermentantur cervisie* (37) or *materia unde levarentur cervisie* (38). So, the idea of a fermenting mass can be explained and there could be a connection between 'gruit' and yeast.

However, Doorman showed that chemically speaking, the 'gruit' could not be yeast. Since it was added before cooking, all the fermenting elements would have been destroyed during this process (39). One may also wonder whether in the 12th century the verbs fermentare and levare had retained their classical meaning of fermenting and whether it would not be more appropriate to translate fermentare by brewing and levare by purifying or making the beer lighter (40). It is also possible that the

34 Cf. Isidore de Seville, *Etymologies*, xx, III, 18 (MIGNE, P. L., t. 82, col. 713-714).

35 Coincidentally, the term beer appears in the texts at the same time as the use of hops becomes general. The first mention appears in a regulation of 1 April 1433 according to O. Bloch et W. von Wartung, *Dictionnaire étymologique de la langue française*, p. 8. The Germanic word bier from which it is derived was already in common use in the 13th century.

36 Hildegarde de Bingen, *Physique III*, 27 (MIGNE, P. L., t. 197, col. 1236).

37 M. G. H., ss. t. XIV, p. 318.

38 G.A.T., éd. de Borman, t. I, p. 267.

39 G. DOORMAN, op. cit., p. 5 sq.

40 See in this regard the article of F. BARTSCHERER, *Beiträge zur Lösung der Grutbier Rätsel*, in *Gesellschaft für die Geschichte und Bibliographie des Brauwesens E.V.*, Berlin, 1952, p. 109-133.

contemporaries attributed to the 'gruit' a fermenting action, for which it was not in fact responsible.

For proponents of the second theory (41), the "gruit" would have been used before the hops for the sole purpose of flavouring the beer. This hypothesis seems more in line with reality. Put forward in 1824 by the Dutchman Ackersdijck (42), it only really became prevalent at the end of the 19th century thanks to the research of De Hullu (43), of Pauls (44) and Schulte (45).

The fact that 14th century sources commonly refer to gruitbier and hoppebier has led the latter to see 'gruit' as a predecessor of hops. Moreover, in some town accounts, the sale of hops follows without transition from that of 'gruit'. This leads us to believe that these two products had the same function. These identical properties were already mentioned in the 12th century by Hildegard of Bingen (46). The act of 1068 for the brewers of Huy to which we have already referred reinforces this view. 'Gruit' is called "*pigmentum*": a word meaning colouring matter, flavouring or spice.

Moreover, the brewers in this locality claim that the lack of plants needed for the production of 'gruit' or their poor quality could lead to the collapse of their business. It can therefore be concluded that they play an essential role in the quality of the beverage (47).

41 Among the Belgian historians P. SMOLDERS, *Heerlijke rechten op het bier in «'t Loonsche»*, BULL. SOC. SCIENT. et LITT. du LIMBOURG, t. 37, 1923, p. 29-42; A. JORIS, op. cit., p. 286, n. 296; R. VAN UYTVEN, *Stadsfinanciën en stadseconomie te Leuven*, p. 313; J.L. CHARLES, *La ville de Saint-Trond au Moyen Age*, p. 336-338; among the Dutch W. JAPPE ALBERTS, *Bijdrage tot de geschiedenis der accinzen te Arnhem in de Middeleeuwen*, TIJDSCHR. VOOR GESCH., t. 64, 1951, p.337-338; G. DOORMAN, op. cit.; T.H.E. JENSMA, *Bronnen tot de geschiedenis van het recht van de gruit in het graafschap Holland, het bisdom Utrecht en het hertogdom Gelre*, VERSL. EN MEDED. TOT UITGAAF DER BRONNEN VAN HET OUD-VADERLANDSCH RECHT, t. 12, 1960, p. 167-168; among the German W. LUTTERBECK, *Das Bier am Niederrhein*, in Gesellschaft für die Geschichte und Bibliographie des Brauwesens, Berlin, 1940, p. 11-19.

42 W. C. ACKERSDIJCK, *Verhandeling over zekere belasting op het brouwen van Bier*, VERHANDEL. VAN DE MAATSCH. DER NEDERL. LETTERK. TE LEYDEN, t. II, 1824, p. 177 sq.

43 J. DE HULLU, *Iets over de gruit*, BIJDR. VOOR VADERL. GESCH. EN OUDHEIDK., 3^o série, t. 10, La Haye, 1899, p. 114-124.

44 E. PAULS, *Wirtschaftsgeschichtliches aus dem Herzogtum Jülich*, ZEITSCHR. DES ACHENER GESCHICHISVER., t. XXII, 1900, p. 280.

45 A. SCHULTE, op. cit., p. 118-146.

46 Cf. above n. 36 : ... *quod si cerviseam de avena parare volueris absque hoppem sed tantum cum grusz et plurimis foliis de Asch additis ...*

47 Cf. n. 11 ... *Moris fuit hactenus hoyi pigmenta fieri et a cervisiartis per singulas*

Another example, contemporary and from the same region. In order to ask the bishop of Metz, Adalberon III, for the definitive concession of the *scrutum*, the monks of Sint-Truiden invoke the following reason: *ut eorum potus qui eatenus vilior habebatur, postea quodammodo melioraretur* (48).

In conclusion, it can be said that the generic term 'gruit' refers to a whole range of plant products (Brabant myrtle, marsh sedge) which, before the use of hops, were used in the production of wort. The 'gruit' did not in fact cause the fermentation of the cereal mixture, although many contemporaries were convinced that it did. It was an adjunct, added to the malt, which increased the shelf life of the beverage and gave it a pungent flavour.

Since 'gruit' was absolutely necessary for the preparation of beer, the authority realised that it was in its interest to levy a duty on the sale of this product. This allowed them to control the entire production of beer. It should therefore come as no surprise that the territorial princes and lords subsequently tried to seize this lucrative right, which was imposed on all breweries without exception.

Let us now turn to the problem of the right of 'gruit'.

According to the documents usually cited, this right consisted of the exclusive right of the owner to supply the material necessary for the production of the beer. This definition is found as early as 999 in a diploma of Otto III in favour of the church in Utrecht (49). Thanks to the Mosan sources, it is possible to flesh out this definition. The abbey of Sint-Truiden received the right of 'gruit' shortly after 1045 following a donation made by the bishop of Metz Thierry II and confirmed in 1060 by his successor Adalberon III. At the beginning of the 12th century, Abbot Rodolphe inserted the definition of the "*scrutum*" about this charter of 1060, which he reproduced in a letter: *Hoc est potestatem ponere et deponere illum qui materiam faceret unde levarentur cerevisiae et de singulis cervisus que brasciarentur in oppido nostro sex picarios ad opus fratrum suscipere* (50).

It can be observed that the abbey retained the monopoly on the sale of this product and at the same time levied a tax on all the beer produced in the town. The abbey's main interest was taxation, i.e., the ability to collect a tax on all the breweries in the town.

cervisias tribus denariis comparari. Sed quia hoyensibus aquis qualia usus eorum expostulat fieri non possunt multis modis, cervisarii gravabantur quia et que eis non proderant pigmenta emere cogebantur superfluo et ne res eorum et labor simul periclitarentur, aliunde comparare necessario.

48 Cf. n. 13.

49 Cf. n. 12. *negocium generale fermentate cervisie quod vulgo grut nuncupatur ...*

50 About this right see J. L. CHARLES, op. cit., p. 336-338, et G.A.T., t. I, p. 267.

The actual abundance of the sources from Sint-Truiden makes it possible to detail the practical organisation of the tax collection.

The tax was levied every week (51) over all the breweries in the city and freehold lands, including those that were not on the abbey's property. The gruit was produced by a *ministerialis* of the abbey: the *grutarius*, in a building near the abbey in the *Planckstraat* (52). In addition to this activity, the *grutarius* was also entrusted with the task of levying taxes on breweries.

Following various conflicts between the breweries and the abbey, the office became hereditary in the first half of the 12th century and it is from this time onwards that the *grutarii* are mentioned in the texts (53). In addition, the *grutarius* undertook to provide the abbey with the necessary 'gruit' free of charge and retained for his own benefit one third of the lost duty on the making of the *cervoise* (beer) (54).

The office of *grutarius* did not only exist in Sint-Truiden. It is also found in Tournai from the end of the 11th century (55), in Leuven in the middle of the 12th century (56) and in Liege in the 13th century (57). However, characteristically, it disappeared everywhere around the middle of the 13th century. It seems that in the Mosan region, the 'gruit' was no longer supplied by the gruthuis but could be obtained at one's convenience.

In contrast, the duty on breweries that was attached to it continues to be levied. In fact, the 'gruit' duty is no longer levied on the supply of the ingredient but is transformed into a fee paid by all breweries (58). Thus, in Sint-Truiden, from the middle of the 13th century onwards, only a duty on brewing was levied, namely one jug per brew (59).

The act of 1068 by the bishop of Liege Théoduin for the brewers from Huy provides further details on how the duty was levied. The bishop had long held a monopoly on the 'gruit' in the locality (59bis => 59). To get it, the brewers had to pay him three denarii on each brew. In 1068, as the

51 G.A.T., contin 3, pars 2., l. I., c. 22, t. II, éd. de BORMAN, p. 150.

52 G.A.T., contin 3, pars 2., l. I., c. 12, t. II, p. 144.

53 G.A.T., Rod., L. ix, c. 22., t. I, p. 159 et G.A.T., contin. 2., L. 1, c. 2., t. II, p. 12-13.

54 C. PIOT, op. cit., t. 1, n° 39, p. 52-53 and G. SIMENON, *L'organisation économique de l'abbaye de Saint-Trond*, Bruxelles, 1913, p. 575-576.

55 P. ROLLAND, *Les origines de la commune de Tournai*, Bruxelles, 1931, p. 108-109.

56 R. VAN UYTVEN, op. cit. p. 314.

57 E. PONCELET, *Les domaines urbains de Liège*, Liège, 1947, p. 77-79.

58 This fact can be linked to the terminology. As early as the 12th century, this change is reflected in the fact that the law is referred to as *cambatum*; in the 13th century, it is called *pangins* in Dutch; these terms are based on the radical *camba*.

59 G.A.T. contin 3, pars 2, l. 1, c. 22, t. II, p. 150 et G.A.T., contin 3, *De gestis Ade*, c. 10, t. II p. 249.

The bishop held the *comitatus* over the locality since 985. Cf. A. Joris, *La ville de Huy au Moyen Age*, Paris, 1959, p. 97.

pigmentum was no longer suitable for the use that the brewers wanted to make of it, they were authorised by the bishop to obtain it wherever they wished. But Théoduin continued to collect the duty on the breweries, namely four *coppatas* or two *nummatas* [2 small barrels] per brew (60). Even earlier in Huy than in Sint-Truiden, the 'gruit' was turned into a royalty levied on the production of all breweries.

An examination of the sources relating to the right of 'gruit' in general shows that before the year 1000 there are only two mentions of this right: one at Fosses in 974 (61) and the other in Bommel in 999 (62). In both cases, the 'gruit' was conceded by the emperor (Otto II and Otto III) to the bishops of Liege and Utrecht. We therefore know about this right at the time it was transferred, but it is clear that the emperor had already held it for a long time and probably since the beginning of the 9th century, when breweries began to flourish.

Given the nature of the plants used, one might wonder whether this monopoly did not originate in the fact that all the waste lands (*wariscapium*) where the herbs necessary for the preparation of this product grew were under public control. The right of 'gruit' would thus be similar to the right of wreckage or the right of "windfall".

In the imperial diplomas prior to the year 1000, it will be noted that the 'gruit' is granted to bishops at the same time as the traditional regalia: market, tonlieu [tax levied over goods and person traveling from place to place] and currency. It was therefore an integral part of these regalia (63).

Before the year 1000, the right of 'gruit' was therefore a regalian right that was ceded to certain territorial princes (bishops) in order to strengthen their temporal power (64). These regalia offered a double benefit: firstly, they allowed the beneficiary to exercise powers of a public nature; secondly, they represented appreciable sources of income. It was obviously the latter aspect that would later arouse the interest of the territorial princes and

60 Cf. n. 47 ... *cujus rei veritate cognita omnium pulsatus precibus constitui per singulas cervisias quatuor coppatas vel duas cervisie nummatas dari et pigmenta ubicumque vellent pro arbitrio suo et commodo a singulis comparari* ... In the future, the duty will continue to be levied in Huy under the title of "droit de copète" from the name of the measure used for this purpose; the revenues will be shared between the bishop and the chapter of Notre-Dame, cf. A. Joris, op. cit. p. 294.

61 Cf. n. 4.

62 Cf. n. 12.

63 At Fosses in 974, Emperor Otto II granted: *in loco Fossas nuncupato theloneum mercatumque et monetam et materiam cervise...*S. BORMANS et E. SCHOOLMEESTERS, op. cit. p.19, n° xiii; at Bommel in 999, Emperor Otton III granted ... *super villam Bomele ... publice rei subjecta, theloneum vero, monetam et negocium generale fermentate cervisie quod vulgo grut nuncupatur* ... S. MULLER et À. C. BOUMAN, op. cit. p. 147, n° 149.

64 This was also highlighted by C. VAN DE KIEFT, op. cit. p. 158-168.

lords.

Later mentions of the right of 'gruit' are found in three Mosan texts that are more or less contemporary (1060-1068). In 1060 (65), Adalberon III, bishop of Metz, confirmed to the abbey of Saint-Trond the donation of the right of 'gruit' that his predecessor had made to him. Between 1047 and 1064 (66), but more probably after 1060, the Count of Namur, Albert II, fearing the loss of his rights over Dinant in favour of the Bishop of Liège, saw fit to put them in writing. In this enumeration, we find mention of the various rights that he levied on the breweries. Finally, in 1068 (67), the bishop of Liège Théoduin, who had held the 'gruit' in Huy for a long time, concluded an agreement with the brewers of this locality.

A close examination of these documents reveals the change that took place in the middle of the 11th century. The right of 'gruit' was still of regal origin, but it took on the character of a constraint, an 'exaction', and appeared mainly as a lucrative monopoly.

In the middle of the 11th century, this right was no longer the emperor's ownership, but was held either by the Bishop of Liège or the Count of Namur, who held it by imperial delegation, or by the Abbot of St. Truiden, who held it from the Bishop of Metz.

In Sint-Truiden, the evolution continues from the end of the 11th and especially the 12th century. The *grutum* appears essentially as a lucrative monopoly. The abbot was mainly concerned with collecting a tax, as seemed to be the case in Huy in 1068. The fact that this tax was levied on all breweries, regardless of who owned them, is a sign of its binding nature.

A *ministerialis* of the abbey was in charge of this office. Soon, the brewers refused to pay, which led to numerous conflicts from the beginning of the 12th century (68). At this point, it can be assumed that this right took on a domanial or seigniorial character, or to put it another way, that it was a banality-due. In this respect, it should be noted that the chronicle speaks of *mala gruta* or "*kaedgruyt*" at the end of the 12th century (69), an unquestionable reference to the rights imposed on tenants by invoking custom, in other words, the feudal banalities.

The text from Namur is in our opinion even more explicit, although it has been interpreted in various ways (70). This document consists of a list of the rights held by the Count of Namur in Dinant. From this description, the count

65 Cf. n. 13. The bishop of Metz remained the owner of part of the domain of Saint-Trond until 1227. Cf. J. L. CHARLES, op. cit. p. 331.

66 Cf. n. 9. It should be noted that in the middle of the 11th century the Count of Namur had written down the rights he had been exercising for some time.

67 Cf. n. 11.

68 G.A.T., Rod. I. ix, c. 22, t. I., p. 160, G.A.T., contin. 2, l. I. c. 12, t. II, p. 21-24.

69 G.A.T., contin. 2., l. I., c. 2, t. II, p. 12-13.

70 H. PIRENNE, *Histoire de la constitution de la ville de Dinant au Moyen Age*, Gand, 1889, p. 2 sq.; et G. Des MAREZ, *Dinant. Études inédites*, Bruxelles, 1936, p. 71 sq.

appears as a public official.

Nevertheless, if one examines the paragraph devoted to the brewery, one cannot help but notice that the details of the rights are reminiscent of domanial constraints. The brewers are subject, as in the estates, to the banality of the oven. For each use, they had to pay five cents to the count's *ministerialis*. In order to prepare or sell beer, they were required to pay three and a half cents to his officer (71). Unquestionably, all this has the character of banalities. Yet the 'gruit' delivered by this same *ministerialis* is included among these rights: it can therefore also be considered as a banality-due.

The third text, which relates to Huy and is dated 1068, is even more decisive and shows that the right of 'gruit' was indeed raised in a banality-manner. In the agreement between Théoduin and the brewers, this right is termed *prava consuetudo*: "Bad custom", the expression is par excellence that which denotes the feudal banalities. The content of the act perfectly reflects the notion of constraint and the search for a lucrative monopoly.

Until then, the bishop had provided the *pigmentum* in return for a fee. Since the brewers could not use it, the bishop declared that he had no wish to see their business fail, but wished to retain his right at all costs (72). He therefore allowed brewers to obtain *pigmentum* elsewhere, while retaining his right to tax every brew made in the city.

In the middle of the 11th century, the right of 'gruit' appears to us in the Mosan region as assimilated to the feudal banalities (73). The evolution probably did not take place in the same way or at the same time everywhere. In Huy and Dinant, it was probably completed around 1050; in Sint-Truiden a few years later. It is important to take into account the political and legal conditions as well as the economic and social context.

In conclusion, we can say that the right of 'gruit' is without question the first and most characteristic of the rights levied on the brewery.

Regalian right - granted by the emperor before the year 1000 along with other regalia to certain territorial princes.

71 F. Rousseau, Actes des Comtes de Namur, p. 89 : ... *Quicumque in villa fornacem, super quam cervisiam parare velit, fecerit, antequam mittat in fornace ignem, dabit ministeriali comitis 5 sol. Quos si solvere neglexerit et absquelicentia ignem imposuerit, sequenti die dabit 10 sol. pro temeritate presumptionis sue. Polenta cervisie, que vulgo maire, in omni villa sua est. Unusquisque de eis, qui cervisiam parant et vendunt, tres sol. et dimidium singulis annis solvunt.*

72 S. BORMANS et E. SCHOOLMEESTERS, op. cit. p. 98-100: ... *pravam consuetudinem sed inveteratam et antiquitate pro lege sancctitam, pietatis intuitu sic temporavi ut et iuri nostro omnino non derogarem et communi omnium utilitati consulerem.*

73 The first communal or *banal* breweries also appeared at the same time. E.g.: after 1069, *camba banalis* de Bouillon (G. KURTH, *Chartes de l'abbaye de St.-Hubert en Ardenne*, t. 1, p. 28, n° 25 after the St.-Hubert chronicle called *cantatorium* written around 1106 éd. K. Hanquet, p. vi, 64).

By the middle of the 11th century, when it had passed into the hands of these same territorial princes, it was considered to be of the same type as the feudal banality-dues.

Originally levied on the supply of the ingredient, it tended to become a very specific banality-duty on every brewery.

It was in this sense that contemporaries called it a 'bad custom' and put it alongside other banality-dues. *

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