

TAMÁS NÓTÁRI\*

## Bavarian Linguistic Elements in *Lex Baiuvariorum*<sup>1</sup>

**Abstract.** This paper intends to analyse the Bavarian linguistic elements of *Lex Baiuvariorum*,<sup>2</sup> the written Bavarian *Volksrecht*<sup>3</sup> created between 737 and 743 from philological aspects and draw further conclusions from findings for legal history considerations. First we will examine expressions where the active predicate in first person plural reveals that the Bavarians assisting in making the law inserted them in relevant passages as words of their own folk language. (I) After that, we will analyse phrases accompanied by active predicate in third person plural and passive predicate in third person singular or plural either naming Bavarians as the subject or not where the text makes it clear that these words were used by Bavarians to express the given meaning. (II) After analysing Bavarian personal names, primarily names of *genealogiae* (III), we will discuss Bavarian/South German expressions in the text of the Bavarian law that apparently correspond to or overlap the relevant loci of *Lex Alamannorum* (IV). In the light of all these, the paper will make an attempt to arrive at some deductions on the usage of *Lex Baiuvariorum* that can be supported by proofs and go beyond hypothesis.

**Keywords:** *Lex Baiuvariorum*, *Lex Alamannorum*, early medieval legal history, *Volksrecht*

### I. Quod dicimus—ex asse Bavarian phrases in *Lex Baiuvariorum*

With respect to the German vocabulary of *Lex Baiuvariorum* we undoubtedly deal with *ex asse* Bavarian phrases whenever the text of the law associates the word with predicates like “*quod dicimus*”, “*quod vocamus*” and similar ones, always in first person plural. These

\* Dr habil., PhD, Research Fellow, Institute for Legal Studies of the Hungarian Academy of Sciences, H–1014 Budapest, Országház u. 30; Associate Professor, Károli Gáspár University Faculty of Law and Political Science, Department of Roman Law, H–1042 Budapest, Viola u. 2–4.

E-mail: [tamasnotari@yahoo.e](mailto:tamasnotari@yahoo.e)

<sup>1</sup> This paper was supported by the TÁMOP-Project Nr. 4.2.2.B-10/1-2010-0015 (Identitäten: Kulturen und Minderheiten im Donauraum).

<sup>2</sup> As the most recent bilingual (Latin and Hungarian) edition of *Lex Baiuvariorum* see Nótári, T.: *Lex Baiuvariorum*. Szeged, 2011. On dating *Lex Baiuvariorum* see Nótári, T.: Römischrechtliche Elemente im Prolog der *Lex Baiuvariorum*. *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae*, Sectio Iuridica 50 (2009), 419–429. On early medieval Bavarian history see Nótári, T.: *Bavarian Historiography in Early Medieval Salzburg*. Passau, 2010; Personal Status and Social Structure in Early Medieval Bavaria. *Acta Juridica Hungarica*, 50 (2009) 1, 85–110; *An Early-Medieval “Show Trial”—Tasilo III’s Dethronement*. In: Beck Varela, L.–Gutiérrez Vega, P.–Spinosa, A. (eds): *Crossing Legal Cultures*. München, 2009. 141–158.

<sup>3</sup> On *Lex Baiuvariorum* see Beyerle, K.: *Lex Baiuvariorum. Lichtdruckwiedergabe der Ingolstädter Handschrift*. München, 1926; Merkel, J.: Das Bairische Volksrecht. *Archiv der Gesellschaft für ältere deutsche Geschichtskunde*, 11 (1858), 533–687; Schwind, E. v.: Kritische Studien zur *Lex Baiuvariorum*, III. *Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde*, 37 (1912), 415–451; Krusch, B.: *Die Lex Bajuvariorum*. Berlin, 1924. 38–163; Kottje, R.: *Die Lex Baiuvariorum—das Recht der Baiern*. In: Mordek, H. (Hrsg.): *Überlieferung und Geltung normativer Texte des frühen und hohen Mittelalters*. Sigmaringen, 1986. 9–23; Eckhardt, K. A.: *Die Lex Baiuvariorum. Eine textkritische Studie*. Untersuchungen zur deutschen Staats- und Rechtsgeschichte 38. Bresslau, 1927; Landau, P.: *Die Lex Baiuvariorum: Entstehungszeit, Entstehungsort und Charakter von Bayerns ältester Rechts- und Geschichtsquelle*. München, 2004.

cases clearly prove that jurists or probably clericals of Bavarian origin assisted in formulating these loci. From among the German words of *Lex Baiuvariorum* the following can be ranked into this category.

The *etorcatea*, i.e. rod or stick supporting the fence,<sup>4</sup> which term can be linguistically related to the Old High German word *cartea* (stick, rod)<sup>5</sup> and the Middle High German word *eter* (woven fence).<sup>6,7</sup>

The law uses the term *wiffa* similarly, which is a mark, usually covering a handful of straw tied to a stick, placed to block a road or protect or enlarge an area of pasture.<sup>8</sup> In this case the inflected, latinised root is *wiffa* (or *uiffa*), which originally comes from the folk language form *wiffun* (*uiffun*)—early latinisation is proved by the spreading of the forms *wiffa* and *wiffare*<sup>9</sup> and the Old High German *uiffa*<sup>10</sup> too.<sup>11</sup>

Again the phrase “*dicimus*” is used when reference is made to *wehadic*, i.e. administration of justice based on tournament (*Kampfding*),<sup>12</sup> as in the resolutions of the Council of Dingolfing<sup>13</sup> or Neuchingen.<sup>14</sup> The word absolutely implies reference to fight, i.e. the German root \**wih*, \**wih* or \**waih* having the meaning *to fight*,<sup>15</sup> which can be perhaps also found in the Gothic word *wiahjô* with the meaning *fight*. This compound contains the word *dinc* in its original sense: *agreement, contact, decision, judgment (concilium, placitum, iudicium)*; so, the phrase *wehadinc* (*uuehadinc*) means *tournament of doom, Kampfgericht*.<sup>16</sup>

Similarly, a predicate in first person plural accompanies the word *avursan*, which most probably means the body/carcass of a wounded animal.<sup>17</sup> In spite of the relative clause, *avursan* is not the Bavarian synonym of any of the above-mentioned words or semantic contents: the derivatives of the phrase occur again in later centuries, especially in Middle

<sup>4</sup> *Lex Baiuvariorum* 10, 17. *Superiore vero virga, quam 'etorcatea' vocamus, qui sepius continet firmitatem...*

<sup>5</sup> Graff, E. G.: *Althochdeutscher Sprachschatz oder Wörterbuch der althochdeutschen Sprache, I–VI*. Berlin, 1834–1842. (Neudruck: Hildesheim, 1963.) IV. 256.

<sup>6</sup> Lexer, M. v.: *Mittelhochdeutsches Handwörterbuch, I–III*. Stuttgart, 1872–1878. I. 713.

<sup>7</sup> Kralik, D. v.: Die deutschen Bestandteile der *Lex Baiuvariorum*. *Neues Archiv der Gesellschaft für Ältere Deutsche Geschichtskunde*, 38 (1913), 1–113.

<sup>8</sup> *Lex Baiuvariorum* 10, 18. *Qui autem signum, quam propter defensionem ponuntur, aut iniustum iter excludendi vel pascendi campum defendi vel applicandi secundum morem antiquum, quem signum 'wiffam' vocamus...*

<sup>9</sup> Du Cange, Ch. du F.: *Glossarium mediae et infimae Latinitatis, I–X*. Niort, 1883–1887. VIII. 415; Graff: *op. cit.* I. 784; Grimm, J.: *Deutsche Rechtsalterthümer, I–II*. Leipzig, 1922. I. 270.

<sup>10</sup> Heyne, M.: *Fünf Bücher deutscher Hausaltertümer, I–III*. Leipzig, 1899–1903. II. 47; Brunner, H.: *Deutsche Rechtsgeschichte, I–II*. Leipzig, 1887–1892<sup>2</sup>. II. 459.

<sup>11</sup> Kralik: *op. cit.* 129f.

<sup>12</sup> *Lex Baiuvariorum* 12, 8. *...tunc spondeant invicem 'wehadinc', quod dicimus...*

<sup>13</sup> *Synodus Dingolfingensis* 11. *...potestatem accipiat cum accusatore suo pacificare, si voluerit, antequam pugnam, quam vocat uuehadinc, fixae promittat.*

<sup>14</sup> *Synodus Nihungensis* 4. *De pugna duorum, quod uuehadinc vocatur, ut prius non sortiantur, quam parati sint, ne forte carminibus vel machinis diabolicis vel magicis artibus insidiantur.*

<sup>15</sup> Fick, A.: *Vergleichendes Wörterbuch der indogermanischen Sprachen, I–III*. Göttingen, 1890–1909. III. 708.

<sup>16</sup> Kralik: *op. cit.* 129.

<sup>17</sup> *Lex Baiuvariorum* 14, 4. *...dicat ad illum reum, qui ipsum animal conpellat in morte: 'Recipe animal, quem laedisti', quem nos 'avursan' vocamus.*

High German (*Mittelhochdeutsch*) sources; for example, in the German explanations of the relevant loci of the *Exodus*<sup>18</sup> as equivalents of *iumentum mortuum*.<sup>19</sup> It should be pointed out that the germanised version and explanation of a passage from Notker's *Psalms*<sup>20</sup> translates the phrase *occisa cadauera* as *irslagágenin áuueîsin*.<sup>21</sup> Therefore, at the analysed point of the *Lex Baiuvariorum* the term *avursan* most probably denotes a weak animal, carcass.

Two words: *wilz* and *angargnago*, which denote types, more exactly qualities of horses, are used in the text also with the predicates *vocamus* and *dicimus*.<sup>22</sup> *Wilz* means a Wendish horse (*wendisches Pferd, equus Weletabus*)<sup>23</sup>—just as today we speak about an Arab thoroughbred—which implies that in Bavaria of the period they regularly used horses from Slavonic territories, or relevant trade might have been significant.<sup>24</sup> The word *angargnago* literally means a grazing or grass chewing horse,<sup>25</sup> as it is a compound of the Old High German noun *angar*<sup>26</sup> and verb (*g*)*nagan*<sup>27</sup>—a quite original phrase implying linguistic humour.

The phrase *waluraupa*, which means the clothes of a killed person, is also used with the predicate *dicimus* in the text of the law.<sup>28</sup> The first part of the word can be clearly compared with the Old High German word *\*walu* with the meaning a *dead, killed man*,<sup>29</sup> and the second part with the again Old High German feminine word *rauba* having the meaning *clothing, armament*:<sup>30</sup> accordingly, *waluraupa* (*uualuraupa*) is nothing else than the literal equivalent of *vestitus occisorum*.<sup>31</sup>

Similarly, the predicate *dicimus* follows the phrase *swarzwild*, i.e. big game, by which the law means primarily bison and bear.<sup>32</sup> It is not difficult to explain the word at all: Bavarians named game on the basis of their black colour.<sup>33</sup>

The term to denote a hawk hunting for a duck, *anothapuh* is again accompanied by the predicate *dicimus*,<sup>34</sup> which literally means *duck hawk*.<sup>35</sup>

<sup>18</sup> *Exodus* 21. 34. 35.

<sup>19</sup> Lexer: *op. cit.* I. 106.

<sup>20</sup> Ps. 62, 11.

<sup>21</sup> Kralik: *op. cit.* 60.

<sup>22</sup> *Lex Baiuvariorum* 14, 12. *Si mediocris fuerit, quod 'wilz' vocamus... Et si deteriore fuerit, quod 'angargnago' dicimus, quod in oste utilis non est...*

<sup>23</sup> Palander, H.: *Die althochdeutschen Tiernamen*. Darmstadt, 1899. 96.

<sup>24</sup> Kralik: *op. cit.* 130.

<sup>25</sup> Palander: *op. cit.* 97.

<sup>26</sup> Graff: *op. cit.* I. 350.

<sup>27</sup> *Ibid.* II. 1014.

<sup>28</sup> *Lex Baiuvariorum* 19, 4. *De vestitu utrorumque, quod 'waluraupa' dicimus, si ipse abstulerit, qui hos interfecit...*

<sup>29</sup> Fick: *op. cit.* III. 402.

<sup>30</sup> Diez, F.: *Etymologisches Wörterbuch der romanischen Sprachen*. Bonn, 1887<sup>5</sup>. (Neudruck: Hildesheim, 1969.) 273.

<sup>31</sup> Kralik: *op. cit.* 124.

<sup>32</sup> *Lex Baiuvariorum* 20, 7. *De his canibus, qui ursis vel bubulis, id est maioris feris, quod 'swarzwild' dicimus, persecuntur...*

<sup>33</sup> Graff: *op. cit.* I. 806; Palander: *op. cit.* 17.

<sup>34</sup> *Lex Baiuvariorum* 21, 3. *Illum, quem 'anothapuh' dicimus...*

<sup>35</sup> Graff: *op. cit.* I. 336; IV. 755; Heyne: *op. cit.* II. 248.

In the passage on fruit-gardens, the word *calasneo*, which is again followed by the predicate *dicimus*, seems to be a synonym of border neighbour, i.e. *commarcanus*.<sup>36</sup> At the same time, it is noteworthy that from among the three *commarcanus* loci of *Lex Baiuvariorum*<sup>37</sup> it is only on this one occasion that border neighbour is defined by a folk language phrase, embedded in “*quem ... dicimus*”, which is quite rare in texts of Bavarian laws, contrary, for example, to *Lex Salica*. This suggests that what we have here is not pure pleonasm, that *calasneo* is not a complete synonym of *commarcanus*; instead, the text intends to highlight a special attribute of it.<sup>38</sup> A part of literature renders *calasneo* and *calasnus* simply by border neighbour,<sup>39</sup> Grimm, von Kralik and Schmidt-Wiegand agree that the prefix *ca-*, *ga-*, and *ge-* – similarly to the Old High German terms *gasello* (*Saalgenosse*, *Hausgenosse*) and *gaferto* (*Fahrtgenosse*), which emphasise the joint element of *living together* and *travelling together* – refers to a kind of activity carried out jointly.<sup>40</sup> Grimm, first, derived the second part of the word from the German form *\*lêswô*, and compared it with the term *lêś*, i.e. *common field* (*gemeine Wiese*) of Anglo-Saxon legal texts.<sup>41</sup> This etymology, however, would stand its ground only if instead of *calasneo* we could reckon with a *calasveo* form, too; yet, from both *Lex Baiuvariorum* and the texts of the charters from Freising left to us the former way of writing is fairly clear. Von Kralik deduced the word analysed by us from the etymon *\*lasna common border* (*gemeine Mark*) reconstructed by him, and accepting the hypothesis of common borderland as a preconception he took a position that cannot be easily defended.<sup>42</sup> Schmidt-Wiegand broke away from the preconception that the hypothesis of *common use* must be reflected in the etymon of *calasneo*, and connected it with the Middle High German word *gelaeze* (*settlement, location of settlement*), and, accordingly, defined *calasneo* as a person with whom somebody has a common border (*marca, finis, terminus*), and determined its physical equivalent, *calasnus* as a bordered area, borderland (*commarca, confinium, terminatio*).<sup>43</sup> Beyond these interpretation opportunities, von Olberg was keen-sighted enough to find one of von Kralik’s remarks to develop the concept with,<sup>44</sup> which asserts that the Old High German words *lâsan* and *lâsna* might have evolved from both of two German roots *\*lê* (*gewähren, erwerben*) and *\*lêt* (*lassen*), and accordingly *lâsan* and *lâsna* can mean *licence granted on an area of land* or *for an area of land and the act of obtaining it* (*das an Grund und Boden Gewährte, Gelassene*).<sup>45</sup> Thus, *calasneo* is nothing else than the person who

<sup>36</sup> *Lex Baiuvariorum* 22, 11. ...*nisi eius commarcanus fuerit, quem calasneo dicimus.*

<sup>37</sup> *Ibid.* 12, 8; 17, 2; 22, 11.

<sup>38</sup> Olberg G. v.: *Die Bezeichnungen für soziale Stände, Schichten und Gruppen in den Leges Barbarorum*. Arbeiten zur Frühmittelalterforschung 11. Berlin–New York, 1991. 152.

<sup>39</sup> For example *Mittellateinisches Wörterbuch II/1*. München 1968. 54.

<sup>40</sup> Grimm: *Deutsche Rechtsalterthümer... op. cit.* II. 671; Kralik: *op. cit.* 33; Schmidt-Wiegand, R.: *Marca. Zu den Begriffen ‘Mark’ und ‘Gemarkung’ in den Leges barbarorum*. In: Beck, H.–Denecke, D.–Jankuhn, H. (Hrsg.): *Untersuchungen zur eisenzeitlichen und frühmittelalterlichen Flur in Mitteleuropa und ihrer Nutzung. Bericht über die Kolloquien der Kommission für Altertumskunde Mittel- und Nordeuropas in den Jahren 1975 und 1976. Teil 1*. Göttingen, 1979. 74–91, 74. ff.

<sup>41</sup> Grimm, J.: *Deutsche Grammatik, I–II*. Berlin, 1878. II. 735; Grimm: *Deutsche Rechtsalterthümer... op. cit.* II. 11.

<sup>42</sup> Kralik: *op. cit.* 61f.

<sup>43</sup> Schmidt-Wiegand: *op. cit.* 83.

<sup>44</sup> Kralik: *op. cit.* 63ff., 66f.

<sup>45</sup> Olberg: *op. cit.* 153.

cultivates or uses the given area with owner's licence. *Lex Baiuvariorum* does not provide us with any other legal provisions regarding the area used by a *calasneo*. The only word that can be connected with the phrase *calasneo*, more exactly the name of its physical equivalent (*calasnus*) is contained in a single source, a charter from Freising from 828, where the enumeration of areas of land of various character and serving different purposes is followed by the names of borders and borderlands that are in the owner's property but have been given into other person's use (*calasnis*).<sup>46</sup>

## II. Quod (Baiuvarii) dicunt—further Bavarian phrases in the text

In what follows we examine the German phrases one by one that are accompanied by *dicunt* or *dicitur* as a general predicate, either by naming or leaving out the subject: *Baiuvarii*. In these cases again there are good chances that we are dealing with Bavarian words in the text of the law.

The word *carmulum* in the meaning *discord, revolt*<sup>47</sup> is, on the one hand, contained in the texts left to us in a latinised, i.e. inflected form (its original form is probably *carmul*), and, on the other hand, mentioned in the text of the law as a typically Bavarian term. The phrase can be found in several early medieval Bavarian sources, including *Annales sancti Emmerami Ratisponensi maiores*<sup>48</sup> and *Conversio Bagorariorum et Carantanorum*.<sup>49</sup> At the same time, the word *carmul* shows close connection with the Old Church Slavonic words *kramola, kramoliti, kramolovati* (*noise, clamour*), the Bulgarian, Azerbaidjanian and Russian word *kramola* (*clamour, confusion, uprising*).<sup>50</sup> Yet, von Kralik convincingly argues that the word is by all means of Bavarian origin and it was adopted from here to Slavonic languages, and certainly not the other way round—all the more because this is the only way that *metathesis* can be explained, at least with regard to how the word *karl* changes into *kralj* in Slavonic.<sup>51</sup> The origin of the word is implied by German parallels, such as the Anglo-Saxon words *cearm, cirm, cyrm* (*cry, noise*), *hercirm, wigcirm, cirman, cyrman* (*to cry, to holler, to make noise*) and the Middle High German word *karmen* (*to complain*)<sup>52</sup>—their common root might have been the word *\*kar, \*kêr* (*to shout, to complain*), which appears in the Gothic word *kara* (*trouble*) and the Old High German word *chara* (*complaint*), too.<sup>53</sup>

The phrase *machfalli*, i.e. *being thrown/hurled off a horse*<sup>54</sup> can be quite accurately taken as the equivalent of the Langobardic word *marahwurf(in)*.<sup>55</sup> *-falli* is the derivative of

<sup>46</sup> *Traditio Frisingensis* I. Nr. 550a ...*quicquid in eis propriis habere visus sum in silvis in pratis in campis in agris in pascuis in vineis in aquarum decursibus in omnibus calasnis et in terminis sicut antecessores mei habuerunt.*

<sup>47</sup> *Lex Baiuvariorum* 2, 3. *Si quis seditionem suscitaverit contra ducem suum, quod Baiuvarii 'carmulum' dicunt...*

<sup>48</sup> *Annales sancti Emmerami Ratisponensi maiores* a. 818. *Pernhardus rex carmulum levitavit...*

<sup>49</sup> *Conversio Bagorariorum et Carantanorum* 5. *quod ille rennuît orat seditione quod carmula dicimus*

<sup>50</sup> Miklosich, F.: *Etymologisches Wörterbuch der slavischen Sprachen*. Wien, 1886. 131.

<sup>51</sup> Kralik: *op. cit.* 69.

<sup>52</sup> Lexer: *op. cit.* I. 1520.

<sup>53</sup> Fick: *op. cit.* III. 39.

<sup>54</sup> *Lex Baiuvariorum* 4, 18. *Si quis aliquem de aequo suo deposuerit, quod 'machfalli' vocant...*

<sup>55</sup> *Edictus Rothari* 30.

the verb *fallian* (cf. *fällen*) having the meaning *to knock down, to throw down*, which can be found in Old High German, too,<sup>56</sup> beside the phrase *march*, which occurs also independently in the text of the law, in the meaning *mar(a)ch*, i.e. (*valuable*) horse.<sup>57</sup>

In the text of the law, beside the phrase *horcrift*, i.e. *immoral/lecherous touching of a free woman or virgin*<sup>58</sup> it is clearly stated that this term are used by Bavarians. The morphemes of the compound are apparently connected with the Old High German words *hôr* and *huor* (cf. *Hure*)<sup>59</sup> and *grift* (cf. *greifen*),<sup>60</sup> and accordingly they undoubtedly mean immoral/lecherous touching/attack.<sup>61</sup>

The phrase *himilzorunga*, which explains lifting a woman's dress over the knee with immoral intention (*indumentorum elevatio*),<sup>62</sup> literally means *tearing a dress*.<sup>63</sup> The morpheme *himil* can be understood with the help of the German and the Anglo-Saxon word *hama* and the Middle High German words *ham*, *heme* with the meaning *dress*, however, this requires presumption of a *hem* form to deduce *himil* from it by the suffix *-ila*. The morpheme *-zorunga* (or perhaps originally *-zorun*) can be connected with the Old High German verb *zeran*, i.e. *to tear*,<sup>64</sup> to arrive at the German technical term that conveys the Latin text.<sup>65</sup>

The phrase *walcvurf* is related to tearing off the kerchief,<sup>66</sup> and the second morpheme of the phrase, *-vurf* having the meaning *tearing off* does not cause any more problem.<sup>67</sup> Von Kralik connects the first morpheme with the Old High German word *walcan* (*uualcan*) and the Middle High German word arising from it: *walkieren* having the meaning *to braid (hair)*.<sup>68</sup> Flick assigns the meaning *to roll, to pack up, to shape it round* to the verb *walken*,<sup>69</sup> which becomes logical with regard to hair in the sense of *to braid, to arrange*. As synonymous phrases it is possible to mention the Anglo-Saxon word *gewealc* and the Danish word *valc* (cf. *Wulst*) again related to winding round, turning, braiding, and accordingly the Old High German word *walc* (*uualc*) can be interpreted as *plait*<sup>70</sup> and *walcvurf* and as *tearing it off* or *to disarrange it with violence*.<sup>71</sup>

The word *wanclugi* occurs in the text of the law as a term for malicious fraud (*Wanklüge*) of inducing a free woman to marry and then discharging her—and it is expressly

<sup>56</sup> Kralik: *op. cit.* 72.

<sup>57</sup> *Lex Baiuvariorum* 14, 11.

<sup>58</sup> *Ibid.* 8, 3. *Si quis propter libidinem liberae manum iniecerit aut virgini seu uxori alterius, quod Baiuvarii 'horcrift' vocant...*

<sup>59</sup> Graff: *op. cit.* IV. 1010.

<sup>60</sup> *Ibid.* IV. 319.

<sup>61</sup> Brunner 1887–1892. II. 563.

<sup>62</sup> *Lex Baiuvariorum* 8, 4. *Si indumenta super genuclos elevaverit, quod 'himilzorunga' vocant...*

<sup>63</sup> Kralik: *op. cit.* 82.

<sup>64</sup> Graff: *op. cit.* I. 45., 691.

<sup>65</sup> Brunner: *op. cit.* II. 563.

<sup>66</sup> *Lex Baiuvariorum* 8, 5. *Si autem discriminalia ieecerit de capite, quod 'walcvurf' dicunt...*

<sup>67</sup> Graff: *op. cit.* I. 1041.

<sup>68</sup> Kralik: *op. cit.* 123.

<sup>69</sup> Flick: *op. cit.* III. 402.

<sup>70</sup> Kralik: *op. cit.* 123.

<sup>71</sup> Brunner: *op. cit.* II. 563.

stated that Bavarians use this term for this state of facts.<sup>72</sup> Authoritative codices use the word *wancstodal* at this locus, but this is clearly a clerical error, and the reconstruction of the original text is due to the *emendata*—although the morpheme *wanc* is identical in both of the words—since the lawmaker denoted this state of facts undoubtedly by an independent *terminus*, and not by *wancstodal* having the meaning *to stop somebody with hostile intention, to surround somebody in an attack*.<sup>73</sup> The first morpheme, *wanc* (*uuanc*) is equal to the identical Old High German and Middle High German word, which means *motion* (in all directions) and in a figurative sense *unreliability, fickleness, fraud*.<sup>74</sup> The second morpheme (*-lugi*) can be again clearly explained from the Old High German word *lugî* with the meaning *lie*,<sup>75</sup> accordingly, the compound means *perfidious lie, malicious fraud*, which is sheer tautology. As a matter of fact, it cannot be ruled out that von Kralik was right when he argued that the second morpheme of the phrase is related to the Old Frisian word *loga* and the Gothic word *liugan* having the meaning *ceremonial promise*, and so the term *wanclugi* is not pure pleonasm but *a false promise to marry*.<sup>76</sup>

The *terminus technicus* for *to stop somebody with hostile intention* (*feindliches Stellen*) is the phrase *wancstodal*,<sup>77</sup> and its morpheme can be clearly interpreted by what has been set out above. The second morpheme of the word shows close connection with the Old High German word *stadal*, which means *barn, stable* as well as *standing, stopping* and *standpoint* in a figurative sense, just as the Anglo-Saxon *stael*. Consequently, *wancstodal* as a state of facts is to stop the pursued violently to enable his enemies to catch up with and kill him.<sup>78</sup>

With regard to *scof*, i.e. *barn without walls* (or a building for storing) the text of the law indicates that the phrase is generally used by Bavarians<sup>79</sup>—and the word can be clearly connected with the Middle High German word *scopf*<sup>80</sup> and the German word *\*scupa* or *\*scuppa*.<sup>81</sup> The word *parch*, i.e. *grain silo*, is also accompanied by the predicate *appellant*,<sup>82</sup> however, it can be taken for granted that—contrary to Graff's presumption<sup>83</sup>—it is not connected with the Middle Latin word *parricus*; instead, we can get closer to the origin of the word by presuming *b-p* consonant shift (quite frequent in Bavarian folk language). Middle High German contains the words *barch*, *barg* and *berg* in the sense of *barn without walls*, just as Swiss usage includes the phrases *Bargen* and *Bärigen*; that is, *parc(h)* meant

<sup>72</sup> *Lex Baiuvariorum* 8, 17. *Si quis liberam feminam suaserit quasi ad coniugium et in via eam dimiserit, quod Baiuvarii 'wanclugi' vocant...*

<sup>73</sup> Merkel: *op. cit.* 533–687; Kralik: *op. cit.* 125.

<sup>74</sup> Lexer: *op. cit.* III. 668; Graff: *op. cit.* I. 691.

<sup>75</sup> Graff: *op. cit.* II. 136.

<sup>76</sup> Kralik: *op. cit.* 126.

<sup>77</sup> *Lex Baiuvariorum* 4, 26. *Si quis liber a facie inimicorum suorum fugerit et alius per vim constare fecerit, aut se contra illum paraverit, interdum inimici illius coniunxerint et interfecerint, et iste nihil amplius fecerit vel comiserit, nec ipso tetigerit, quod 'wancstodal' dicunt...*

<sup>78</sup> Kralik: *op. cit.* 127.

<sup>79</sup> *Lex Baiuvariorum* 10, 2. *Si autem septa non fuerit, sed talis, quod Baiuvarii 'scof' dicunt, absque parietibus...*

<sup>80</sup> Lexer: *op. cit.* II. 826.

<sup>81</sup> Fick: *op. cit.* III. 469.

<sup>82</sup> *Lex Baiuvariorum* 10, 2. *De illo granario, quod 'parch' appellant...*

<sup>83</sup> Graff: *op. cit.* III. 348.

storage room (*Bergeraum*).<sup>84</sup> The phrase *scopar* is also followed by the predicate *appellant* so we can be sure that what we have here is a Bavarian word,<sup>85</sup> which shows close connection with the Old High German word *sco-bar*,<sup>86</sup> the Middle High German word *schober*<sup>87</sup> and the New High German *Schober*.<sup>88</sup>

Furthermore, it is worth paying attention to the phrase *in unwan*, occurring at several points in the text of the law: on three occasions it supplements the state of facts in Latin—including one point where it is mentioned *expressis verbis* that Bavarians use this phrase and two others without any reference to Bavarians—and on one occasion the text of the law adds explanation in Latin to this phrase. At the first locus in the text the law speaks about thrusting a man from a riverbank or bridge into water and indicates that Bavarians call it *inunwan*,<sup>89</sup> at the second and third loci, where it is not mentioned that it is a Bavarian phrase—though it should be understood to imply this owing to the reference made two paragraphs before—the law sanctions thrusting a free man from a ladder<sup>90</sup> or shooting at a free man by a poisoned arrow.<sup>91</sup> The fourth locus is in the part that punishes arson—and the deaths that occur in relation to it at the specific point—and the word *inunwan* is used as an independent state of facts and is explained in Latin.<sup>92</sup> Linguistically, the phrase can be related to the Old High German word *wân* (*uuâni*) in the meaning *opinion, view, hope*,<sup>93</sup> which can be accompanied by *ur-* as *prae-fixum* and, therefore, means desperation (*uruuâni*) and desperate (*uruuâni*).<sup>94</sup> Apart from *Lex Baiuvariorum*, the *prae-fixum un-* can be read in Otfrid,<sup>95</sup> where it denotes an *unexpected deceptive event causing disappointment*. Accordingly, the explanation of the locus quoted as the fourth item seems to be appropriate which states that the word *unwan* can be rendered by the concept *desperatio vitae*, i.e. *despair over life—or mortal danger* in free translation.<sup>96</sup>

<sup>84</sup> Kralik: *op. cit.* 96.

<sup>85</sup> *Lex Baiuvariorum* 10, 2. *De minore vero, quod 'scopar' appellant...*

<sup>86</sup> Graff: *op. cit.* VI. 411.

<sup>87</sup> Lexer: *op. cit.* II. 765.

<sup>88</sup> Kralik: *op. cit.* 98. f.

<sup>89</sup> *Lex Baiuvariorum* 4, 17. *Si quis alium de ripa vel de ponte in aquam pinxerit, quod Baiuvarii 'inunwan' dicunt...*

<sup>90</sup> *Lex Baiuvariorum* 4, 19. *Et si alicui scalam iniuste eiecerit vel quaecunque genera ascensui, et ille desuper fuerat relictus...*

<sup>91</sup> *Lex Baiuvariorum* 4, 21. *Si quis cum doxicata sagitta alicui sanguinem fuderit, cum XII solidis componat, eo quod 'inunwan' est...*

<sup>92</sup> *Lex Baiuvariorum* 10, 4. *... 'inunwan' quod dicunt, in desperationem vitae fecerit...*

<sup>93</sup> Graff: *op. cit.* I. 857.

<sup>94</sup> *Ibid.* I. 859.

<sup>95</sup> *Otfrids Evangelienbuch*. (Hrsg. Erdmann, O.) Halle, 1882. 5, 4, 20.

<sup>96</sup> Grimm: *Deutsche Rechtsalterthümer...* *op. cit.* II. 187; Kralik: *op. cit.* 120f.; Baesecke, G.: *Die deutschen Worte der germanischen Gesetze. Beiträge zur Geschichte der deutschen Sprache und Literatur*, 59 (1935) 1–101, 18.



### III. Bavarian personal names in *Lex Baiuvariorum*

In the title listing Bavarian clans the following names occur, which are regarded linguistically identically as common nouns of pure Bavarian origin set out without latinisation: *Hosi/Huosi*, *Draozza*, *Fagana*, *Hahilinga/Hahiligga*, *Annion(a)*.<sup>97</sup>

The name *Hosi/Huosi/Hôsi* can be connected with the Old High German word *hout* (*helmet*, hat—cf. *Hut*), which can be traced back to the German form *\*hōda*, *\*hōdi*, and the Indo-Germanic form *\*quāt*.<sup>98</sup> The German *\*hōssi* or *\*hōsi* might have developed from the latter form by adding the suffixum *-ti* to it, just as in case of the Latin word *cassis* with the meaning *bronze helmet*, which has developed from the Indo-Germanic word *quat-ti*.<sup>99</sup> Soon, a personal name evolved from the Latin common noun (cf. Cassius, i.e. “Helmeted”), just as in German, demonstrated by the Old High German name with identical meaning Hasso, Hesso (cf. *Hesse*)—it should be added that the word *huot* is sometimes used in Middle High German in the meaning *helmet* and that several proper names belong to the Old High German phrase (e.g. Hodo, Hoto, Huoto).<sup>100</sup> So, originally *Hosi/Houisi* might have meant the *clan of helmet wearers*, which seems to be logical both linguistically and in terms of content.

The original form of the name *Draozza* might have been the *pluralis* of the masculine word *draozz* with *a*-root, occurring in Old High German too, which can be traced back to the German word *\*brautaz* with the meaning *to harass, to bother* and the root word *\*brut*, *\*preut* and *\*braut*, from which the Latin verb *trudo* has developed.<sup>101</sup> The Old Norse common noun *þrjótr* and the Old High German *ardriozan* having the meaning *obstinate, stubborn man* can be connected with the same root, which allows to make it probable—emphatically only probable—that the *genealogia Draozza* might have covered the *clan of adamant, unruly, “hard neck” people*.<sup>102</sup>

The name *Fagana* is also the plural of the masculine word *fagan* with *a*-root, which is closely related to the Old Norse adjective *feginn* with the meaning *merry, happy* and the Anglo-Saxon adjective *faegen*<sup>103</sup> as well as the Old High German *gafag/gafago* with the meaning *satisfied* and the Gothic verb *faginon* with the meaning *to rejoice*, the Old Norse verb *fagna*, the Anglo-Saxon verb *fægnian* and the Old High German verb *faginon*.<sup>104</sup> Accordingly, the name *Fagana* might have covered the *clan of rejoicing, happy people*.<sup>105</sup>

The name *Hahilinga* is again masculine, plural, *a*-root, and due to the suffix *-inga* means *Hahilo’s people*—the word *hah* and the Old High German *hâh* can be linked to the German *\*hanh* (*to string up, to hang, to torture*) and the word *\*hanha* (*column*); yet, it

<sup>97</sup> *Lex Baiuvariorum* 3, 1. *De genealogia, qui vocantur Huosi, Trozza, Fagana, Hahiligga, Anniona: isti sunt quasi primi post Agilolvingas, qui sunt de generi ducali; illis enim duplam honorem concedamus et sic duplam compositionem accipiant.*

<sup>98</sup> Fick: *op. cit.* III. 69.

<sup>99</sup> Walde, A.–Hofmann, J. B.: *Lateinisches Etymologisches Wörterbuch, I–II*. Heidelberg, 1954<sup>2</sup>.

I. 137.

<sup>100</sup> Kralik: *op. cit.* 40.

<sup>101</sup> Fick: *op. cit.* III. 194.

<sup>102</sup> Kralik: *op. cit.* 40.

<sup>103</sup> Fick: *op. cit.* III. 225.

<sup>104</sup> Graff: *op. cit.* III. 413.

<sup>105</sup> Grimm, J.: *Geschichte der deutschen Sprache*. Leipzig, 1880. (Neudruck: Hildesheim, 1970.) 510; Kralik: *op. cit.* 41.

remains a question what meaning could be attributed to the name of the clan in the light of all the above.<sup>106</sup>

The name *Annion(a)* is the *pluralis* of the Old High German masculine word with *jan*-root *annio*, as a parallel with it, it is possible to refer to the Old Norse *unna* and *ann* with the meaning *to love, to care for, to let somebody get something (gönnen)*, the Anglo-Saxon verb *unnan* and *ann*, the Old High German verb *unnan* and the German verb *\*ann* and *\*unnan*.<sup>107</sup> Accordingly, the *genealogia Annion(a)* covered *the clan of dear people with good intentions*, which content is quite plausible in view of the above-described meaning of the name of the *genealogia Fagana* and the *genealogia Draozza*, indicating a basic feature, characteristics.<sup>108</sup>

#### IV. Bavarian/South German phrases corresponding to *Lex Alamannorum*

It is worth paying attention to the phrases that can be found in a similar or identical form in *Lex Alamannorum*—they are as follows (quoting the Bavarian form): *hrevavunt, leithunt, lidiscart(i), mar(a)ch, marchzand, palcprust, pulislac, taudregil*. Consequently, these words were borrowed from *Lex Alamannorum*, more specifically from its earlier version, *Chlotharianá*.<sup>109</sup>

The phrase *hrevavunt* occurs three times in the text of *Lex Baiuvariorum*.<sup>110</sup> The first morpheme does not come from the Old High German word *hrêo*, i.e. *dead body (cadaver)*, it is related to the Old High German word *href, ref* having the meaning *body, lower parts of the body*, the Anglo-Saxon word *hrif* and the Old Frisian word (*med*)*ref*,<sup>111</sup> which are etymologically related to the Latin word *corpus*.<sup>112</sup> It should be noted that it is possible to draw the conclusion from copying errors of certain manuscripts that some of the medieval copiers associated the Bavarian phrase with the word *cadaver* already in their thoughts, as it is implied by the Middle High German phrase *ferchwunt (todtund)*<sup>113</sup>—the error might have occurred, among others, because they transcribed the last letter of the Old High German *href* by *u* or *v*.<sup>114</sup> At the same time, in certain manuscripts the way of writing of *refvunt* and *refauunt* clearly shows the proper etymology of the word since *interiora membra* in the text can be taken as the equivalent of the meaning of the word *href (corpus)* rather than that of *hrêo (cadaver)*.<sup>115</sup> It is worth comparing the relevant loci of *Lex Baiuvariorum* with the loci of *Pactus Alamannorum* where the word *revo* is used in the text, in addition to *latus*, i.e., *side*, in the meaning of *internal part* in the sense of *injury to internal organs (placatus in*

<sup>106</sup> Kralik: *op. cit.* 41.

<sup>107</sup> Fick: *op. cit.* III. 14.

<sup>108</sup> Kralik: *op. cit.* 43.

<sup>109</sup> Baesecke: *op. cit.* 18f.

<sup>110</sup> *Lex Baiuvariorum* 4, 6. *Si cervella in capite appareat, vel in interiora membra plagatus fuerit, quod 'hrevavunt' dicunt...*; 5, 5. *Si quis eum percusserit, ut cervella eius appareat vel interiora membra vulneravit, quod 'hrevavunt' dicunt...*; 6, 5. *Si eum plagaverit, ut cervella appareat vel interiora membra vulneraverit, quod 'hrevavunt' vocant, et si eum tantum cederit et turnaverit, usque dum eum semivivum relinquat...*

<sup>111</sup> Du Cange: *op. cit.* IV. 256; Graff: *op. cit.* IV. 1153.

<sup>112</sup> Walde–Hofmann: *op. cit.* I. 194.

<sup>113</sup> Lexer: *op. cit.* III. 89.

<sup>114</sup> Kralik: *op. cit.* 87.

<sup>115</sup> *Ibid.* 88.

revo),<sup>116</sup> which cannot mean *mortal injury* related to the word *hrêo* as etymological base as the amount to be paid for it should be much higher. The second morpheme of the word, *wunt (uunt)* should be interpreted as a *participium*, i.e. in the sense of *injured in his internal parts*.<sup>117</sup> The word *hrevawunti* is closely related to this phrase, which occurs three times in the text of the law.<sup>118</sup> Contrary to the above-mentioned form, *hrevawunti* is the dative of the feminine noun, its formation corresponds with the name of several states of facts contained in *Lex Baiuvariorum* (cf. *lidiscarti, adarcrati*); so, it denotes *injury to internal parts*.<sup>119</sup>

*Laitihunt* is nothing else than *a hunting dog kept on a lead*,<sup>120</sup> as it is shown by the determination of these phrases in *Lex Alamannorum*.<sup>121</sup> *Laitihunt* was different from common hunting dogs (*spurihunt*) as it was used for hunting more valuable game.<sup>122</sup>

The term *lidiscart(i)* appears in the text of the law in connection with cutting off the ear as mutilation distorting outward appearance.<sup>123</sup> *Lex Alamannorum* uses the phrase *scardi* with regard to cutting off one of the ears.<sup>124</sup>

In *Lex Baiuvariorum mar(a)ch* denotes a certain kind of horse,<sup>125</sup> just as in two loci of *Lex Alamannorum*.<sup>126</sup> The name corresponds with the Middle High German words *marc, march* and *mar*, the Anglo-Saxon *mearh*, and the Old Norse *marr*, and denotes—at least in *Lex Baiuvariorum*—*valuable steed*, as the opposite of *wilz* and *angargnago*.<sup>127</sup>

In *Lex Baiuvariorum marchzand* means molar,<sup>128</sup> just as in *Lex Alamannorum*.<sup>129</sup> The word was produced as a compound of *marcha* and *zand*; so, in literal translation, it means *border tooth*,<sup>130</sup> and corresponds with the Middle High German phrase *marczan (Backenzahn)*.<sup>131</sup>

<sup>116</sup> *Pactus Alamannorum* 11. *Si quis in revo placatus fuerit aut in latus...; 12. Si quis in latus alium transpunxerit, sic ut in revo placatus non sit...*

<sup>117</sup> Kralik: *op. cit.* 88.

<sup>118</sup> *Lex Baiuvariorum* 1, 6. *Et quanti homines ibi intus fuerint et inlaesi de incendio evaserint, unigue cum sua 'hrevavunti' conponat.; 10, 1. Et quanti liberi nudi evaserint de ipso incendio, unumquemque cum sua 'hrevavunti' conponat.; 10, 4. Si autem ignem posuerit in domu, ita ut flamma eructuat, et non perarserit, et a familiis liberate fuerit, unumquemque de liberis cum sua 'hrevavunti' conponat...*

<sup>119</sup> Kralik: *op. cit.* 89.

<sup>120</sup> *Lex Baiuvariorum* 20, 1. *Si quis canem seucem, quod 'laitihunt' dicunt, furaverit vel occiderit...*

<sup>121</sup> *Lex Alamannorum* 78. *...illo doctore, qui hominem ducit, quod laitihunt dicunt...*

<sup>122</sup> Heyne: *op. cit.* II. 222; Kralik: *op. cit.* 91.

<sup>123</sup> *Lex Baiuvariorum* 4, 14. *Si aurem maculaverit, ut exinde turpis appareat, quod 'lidiscart' vocant...*

<sup>124</sup> *Lex Alamannorum* 58. *Si enim medietatem auri absciderit quod scardi alamanni dicunt...*

<sup>125</sup> *Lex Baiuvariorum* 14, 11. *...si equus est, quod 'march' dicunt...*

<sup>126</sup> *Lex Alamannorum* 61, 2. *...et si talem involaverit equum, quod Alamanni marach dicunt...; 63, 1. ...si equo, quod marach dicunt...*

<sup>127</sup> Palander: *op. cit.* 91; Graff: *op. cit.* II. 844.

<sup>128</sup> *Lex Baiuvariorum* 4, 16. *Si quis alicui dentem maxillarem, quod 'marchzand' vocant, excusserit...; 6, 10. Si ei dentem maxillarem excusserit, quod 'marchzand' vocant...*

<sup>129</sup> *Lex Alamannorum* 67, 22. *Si autem dentem absciderit, quod marczan dicunt Alamanni...*

<sup>130</sup> Graff: *op. cit.* V. 683; Kralik: *op. cit.* 92.

<sup>131</sup> Lexer: *op. cit.* I. 2044.

*Palcprust* means *fracture of bone* that is not open and has developed without injury to the skin.<sup>132</sup> The locus shows obvious connection with *Lex Alamannorum*.<sup>133</sup> In the interpretation of the phrase it is absolutely necessary to take into account the Old High German words *balg* having the meaning *skin, abdomen* and the Old High German word *brust* with the meaning *cutting, incision*.<sup>134</sup> On the other hand, it is remarkable that *palcprust* can mean only injury to the skin (*pellis fractio*), but the Latin text emphasises that fracture of bone has occurred but injury to the skin has not occurred during the injury. The locus shows an interesting analogy with the reference to *hraopant*,<sup>135</sup> more specifically, in both cases the German technical term accompanies the negation of the given state of facts. All this makes it probable that the Bavarians and the Alemanns defined an independent state of facts covering physical injury causing injury to the skin, *palcprust/balcbrust*, which seems to be plausible all the more as such a state of facts is mentioned *expressis verbis* in *Lex Visigothorum*.<sup>136</sup> Borrowing or use of the Visigothic locus is implied by several corresponding items in *Lex Baiuvariorum*: the locus “*si quis ingenuum quolibet hictu percusserit, pro libore*” and “*si quis liberum per iram percusserit*” in the analysed locus overlap, similarly “*si talis plaga, quod tumens sit*” and “*plaga usque ad ossum*” as well as “*si ossa fregit*” and “*osso fracto*” overlap. The phrase “*cute rupta*” in *Lex Visigothorum* can be taken as the equivalent of “*cutem fregit*” in *Lex Baiuvariorum* and “*pellem rupit*” in *Lex Alamannorum*, although they are accompanied by the negation of the state of facts in the last two laws.<sup>137</sup>

By the word *pulislac* the act denotes the state of facts or finding when somebody hits or injures a free man out of anger, i.e. sudden passion.<sup>138</sup> This phrase can be found in both *Lex Alamannorum*<sup>139</sup> and *Edictus Rothari* where it denotes hitting a slave<sup>140</sup> as well as in *Lex Ribuarica*<sup>141</sup> where it occurs in the form *bulislege* and is contained in the state of facts of abusing a slave. Etymologically, the phrase can be connected with the Old High German words *puilla, pūlla*<sup>142</sup> and *slac*<sup>143</sup> and the Middle High German *būlslac*;<sup>144</sup> in other words, it

<sup>132</sup> *Lex Baiuvariorum* 4, 4. *Si in eum vena percusserit, ut sine igne stangnare non possit, quod 'adarcrati' dicunt, vel in capite testa appareant, quod 'kepolsceni' vocant, et si ossa fregit et pelle non fregit, quod 'palcprust' dicunt, et si talis plaga ei fuerit, quod tumens sit...*

<sup>133</sup> *Lex Alamannorum* 67. *Si enim brachium fregerit, ita ut pellem non rumpit, quod Alamanni balcbrust ante cubitum dicunt...*

<sup>134</sup> Graff: *op. cit.* III. 106f.; 275.

<sup>135</sup> *Lex Baiuvariorum* 4, 8.

<sup>136</sup> *Lex Visigothorum* 6, 4, 1. *Si quis ingenuum quolibet hictu in capite percusserit, pro libore det solidos V, pro cute rupta solidos X, pro plaga usque ad ossum solidos XX, pro osso fracto solidos C.*

<sup>137</sup> Kralik: *op. cit.* 94f.

<sup>138</sup> *Lex Baiuvariorum* 4, 1. *Si quis liberum per iram percusserit, quod 'pulislac' vocant...; 5, 1. Si quis eum percusserit, quod 'pulislac' vocant...*

<sup>139</sup> *Lex Alamannorum* 67. *Si quis alium per iram percusserit, quod Alamanni 'pulislac' vocant...*

<sup>140</sup> *Edictus Rothari* 125. *Si quis servum alienum rusticianum percusserit pro unam feritam id est pulslahi...*

<sup>141</sup> *Lex Ribuarica* 19. *Si ingenuus servum ictu percusserit ut sanguis non exeat usque ternos colpos, quod nos dicimus bunislege...*

<sup>142</sup> Graff: *op. cit.* III. 96f.

<sup>143</sup> *Ibid.* VI. 771ff.

<sup>144</sup> Lexer: *op. cit.* I. 381.

can be defined as a blow which does not cause paralysis or bleeding but results in a swelling, hump on the head (cf. *Beulenschlag*).<sup>145</sup>

The phrase *taudregil* (*taudragil*) occurs twice in the text of the law and in the first locus it is accompanied by a Latin explanation: a form of lameness caused by bodily injury when the relevant person's *foot touches dew*, i.e. he *drags his foot*.<sup>146</sup> This phrase in the same sense and with the same explanation can be found in *Lex Alamannorum*, too.<sup>147</sup> The etymology of the first morpheme of the word is quite clear: it is connected with the Old High German word *tau*, having the meaning *dew*.<sup>148</sup> The morpheme *dregil/dragil* can be related to the Gothic verb *þragian* having the meaning *to run*, as it has been pointed out by Grimm already;<sup>149</sup> yet, the analysed phrase most probably contains a more ancient meaning of the verb, more closely related to the German root *\*þrag \*þrēg*:<sup>150</sup> *to drag* (*trahere*).<sup>151</sup>

## Conclusion

A major part of the German phrases of *Lex Baiuvariorum* appear in the text as ancient, extremely characteristic compounds: firstly, they explain or supplement the Latin text; secondly, they convey the Latin specifications of the state of facts, usually constituting an independent part of the sentence, by a German technical term; thirdly, they appear as independent phrases with or without Latin explanation. There are several idioms that are not in want of linguistic humour either; for example, the valueless “grass destroyer”, *angarnago*,<sup>152</sup> or the lame man “walking on dew”, *taudregil*.<sup>153</sup>

The distribution of German phrases in the text is rather uneven: they occur primarily in *title* 2, 4, 8, 10, 12, 14, 19, 21 and 22, secondarily in *title* 1, 5, 6, 13, 16 and 20. *Title* 15 and—basically—16 contain no German elements, as the prime prefiguration of the latter two is *Lex Visigothorum*, which has no German terms.<sup>154</sup> Similarly, considerable German elements cannot be found in *title* 3, 7, 11 and 18, which are usually regarded as subsequent additions to the basic text—there is no room to dwell on this particular problem here, however, it is quite probable that the lack of German terms cannot be accidental concerning the issue of the author, the date, place and form of making the text. Although *title* 20, 21 and 22 abound in German words, it is worth pointing out that they (except for the term *untprunt*<sup>155</sup>) are the names of things and not of state of facts.<sup>156</sup>

<sup>145</sup> Brunner: *op. cit.* II. 636; Kralik: *op. cit.* 98.

<sup>146</sup> *Lex Baiuvariorum* 4, 27. *Si quis aliquem plagaverit, ut exinde claudus fiat, sic ut pedes eius ros tangit, quod 'taudregil' vocant...;* 6, 11. *Si eum surdaverit vel sic eum plagaverit, ut claudus permaneat, quod 'taudregil' vocant...*

<sup>147</sup> *Lex Alamannorum* 57, 62. *Si quis autem alium in geniculo placaverit, ita ut claudus permaneat, ut pes eius ros tangat, quod Alamanni taudragil dicunt...*

<sup>148</sup> Graff: *op. cit.* V. 346.

<sup>149</sup> Grimm: *Deutsche Rechtsalterthümer... op. cit.* II. 187.

<sup>150</sup> Fick: *op. cit.* III. 190.

<sup>151</sup> Kralik: *op. cit.* 111.

<sup>152</sup> *Lex Baiuvariorum* 14, 12.

<sup>153</sup> *Ibid.* 7, 24.

<sup>154</sup> Baesecke: *op. cit.* 21.

<sup>155</sup> *Lex Baiuvariorum* 22, 10.

<sup>156</sup> Cf. Baesecke: *op. cit.* 22.

With respect to phrases of non-Bavarian origin it can be established (i) that several of them were borrowed from *Lex Alamannorum*—specifically the words *scuria*,<sup>157</sup> *wadium*<sup>158</sup> and *wergeldo*,<sup>159</sup> (ii) several words such as *alodis*,<sup>160</sup> *fredum*<sup>161</sup> and *saiga/saica*<sup>162</sup> can be found in *Lex Alamannorum*, albeit, in a different context and in a different sense; therefore, it cannot be stated that they have been borrowed.<sup>163</sup> The words *alodis* and *fredum* occur in *Lex Salica* too; yet, it should be pointed out that several Salian Frankish terms not contained in *Lex Salica* can be read in *Lex Baiuvariorum*—such as the words *commarcanus*,<sup>164</sup> *feidosus*,<sup>165</sup> *leuda*<sup>166</sup> and *tuninum*<sup>167</sup>—consequently, they might have been adopted in the text of the Bavarian law by drawing on later laws, *capitularia*.

Furthermore, the linguistic relation between *Edictus Rothari* and *Lex Baiuvariorum* can be demonstrated with regard to numerous words: such as *kaheio*,<sup>168</sup> *ezziszun*<sup>169</sup> and *etorcartea*,<sup>170</sup> somewhat different in their meaning. At the same time, there are some words that overlap only partially, e.g. *horcrift*<sup>171</sup> (cf. Langobardic *anagrip/anagrifft*<sup>172</sup>), *waluraupa*<sup>173</sup> (cf. Langobardic *rairup*<sup>174</sup>) and *marchfalli*<sup>175</sup> (cf. Langobardic *marchworfin*<sup>176</sup>), whereas *pulislac*<sup>177</sup> (cf. Langobardic *pulslahi*<sup>178</sup>) has a different meaning in spite of complete concord.<sup>179</sup> As a matter of fact, given the proportion of such concords and differences, it remains a question where the scales should tilt: towards borrowing or overlapping that comes from common German roots.

<sup>157</sup> *Ibid.* 10, 2.

<sup>158</sup> *Lex Baiuvariorum* 2, 14.

<sup>159</sup> *Ibid.* 16, 5.

<sup>160</sup> *Ibid.* 2, 1.

<sup>161</sup> *Ibid.* 1, 6.

<sup>162</sup> *Ibid.* 1, 3. *Si interiores aedificii illam columnam eicerit, quam 'winchilsul' vocant...*

<sup>163</sup> Baesecke: *op. cit.* 23.

<sup>164</sup> *Lex Baiuvariorum* 12, 8.

<sup>165</sup> *Ibid.* 2, 8.

<sup>166</sup> *Ibid.* 9, 3.

<sup>167</sup> *Ibid.* 1, 13.

<sup>168</sup> *Ibid.* 22, 6.

<sup>169</sup> *Ibid.* 10, 16.

<sup>170</sup> *Ibid.* 10, 17.

<sup>171</sup> *Ibid.* 8, 3.

<sup>172</sup> *Edictus Rothari* 190. 214.

<sup>173</sup> *Lex Baiuvariorum* 19, 4.

<sup>174</sup> *Edictus Rothari* 16.

<sup>175</sup> *Lex Baiuvariorum* 4, 18.

<sup>176</sup> *Edictus Rothari* 30.

<sup>177</sup> *Lex Baiuvariorum* 4, 1; 5, 1.

<sup>178</sup> *Edictus Rothari* 125.

<sup>179</sup> Baesecke: *op. cit.* 23.