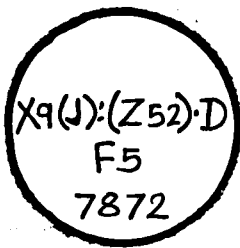


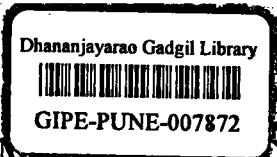
THE ROMAN COLONATE

BY

ROTH CLAUSING



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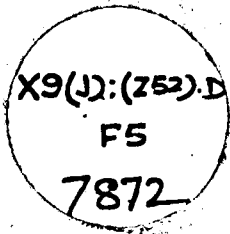
The Theories of its Origin

BY

ROTH CLAUSING, M. A.

*Assistant Professor of Economics, University of Rochester
Sometime Garth Fellow, Columbia University*

SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY
IN THE
FACULTY OF POLITICAL SCIENCE
COLUMBIA UNIVERSITY



NEW YORK
1925

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INTRODUCTION

THE work of Professor Clausing was undertaken at my suggestion five or six years ago, and now that it is finished I cannot help feeling that an important task has been accomplished. It is, to begin with, the only comprehensive and up-to-date treatise on the colonate; it reviews all the theories of the colonate for the last hundred years and critically examines the sources upon which they are based; and finally in the last two chapters, Professor Clausing presents effectively the material that led him to share my view on the subject.

All the old theories had their day in court, and learned criticism is likely to be centered, and rightly so, upon the theory that Professor Clausing and myself share in common. In the Digest, the tenant farmer or the *colonus* was free to move. In the Codes he is adscribed and bound to the soil. What was the object of such drastic abbreviation of the tenant's civil liberties? He was obviously bound to the soil because he would not stay on the soil if not bound. Other attempts had been made before to retain an agricultural population, and only after all other attempts had failed, was adscription to the soil resorted to. Of the fact that the agricultural population was abandoning the land, we have ample, indeed, conclusive evidence. If the land was abandoned in such wholesale fashion, does the idea not suggest itself that the people were leaving because agriculture was not profitable? Had cultivation been profitable, there would have been no need of emphyteutic legislation, nor would it have been necessary to bind the tenant to the soil. The diminishing agricultural production and with it the dwindling of the agricultural population troubled the Roman admin-

istration very seriously. This the laws and the literature of the time make clear.

Take the *Constitutio de Scyris*, discovered in 1824, which later led Savigny to accept the theory of Zumpt that the origin of the colonate is to be found in the settlement of barbarians. This very document gives the reason for that particular settlement—"Licet . . . pro rei frumen(tari)ae angustiis" . . .—the decrease in agricultural production.

Is the progressive exploitation and final exhaustion of the fields of Italy and later on of the provinces a mere theory? What do the ancient agricultural writers tell us? Will not the critic admit that those agricultural writers knew as much as was to be known about the agricultural and agrarian conditions of their times? It would be insane to disregard their consensus of opinion. Most of the agricultural writers are of course lost now; but what does Columella, for instance, tell us about the prevailing opinion? He begins the first chapter of the second book with the following lines: "You ask me, Publius Silvinus—and I hasten to reply to you—why I began my former book by *refuting the ancient opinion of nearly all agricultural writers, and by rejecting as false their idea that the soil, worn out by long cultivation and exhausted, is suffering from old age.*" The critic will observe that I cannot claim credit for an exhaustion-of-soil theory; but that this so-called theory was considered a fact by nearly all ancient writers.

Now Columella tells us that he differs from his predecessors; but in what respect? He says that the soil is not suffering from old age, but that if treated properly it would respond and improve. Something that we of course know perfectly well. However, when Columella is considering not the possible productivity of Italian soil under skilful treatment, but actual productivity, he tells us in Chapter III of the third Book, that no one can remember when the soil produced four-fold in Italy. "*Nam frumenta majore qui-*

dem parte Italiae quando cum quarto responderint, vix meminisse possumus." The same tale we hear from all writers, whether they are of the first or of the fourth century. One letter of Symmachus is particularly interesting. He frankly admits that he does not expect to make his farm profitable, and that he can keep it up only by constant expenditure; "for," he says, "it has come to be the rule in our age that land which once fed us now must itself be fed."

Under such conditions, one does not have to look very far for the reason and origin of the colonate. The reader will perhaps concede that it is not a theory or a construction which Professor Clausen and I are maintaining, but a frank admission of the facts that confront us. The freeman is bound to the soil for precisely the same reasons that led to the improvement in the condition of the agricultural slave. The agricultural slave too is bound to the soil in the hope of maintaining agricultural production and tillage. That this production is unprofitable and that great is the temptation to sell the agricultural slaves off the land, leads the administration to drastic legislation. Here is a law that refers to the *originarii* and *censiti*. It absolutely forbids that they be sold off the land. "Nor by tricky misconstruction shall the law be so evaded, as has repeatedly been done in the case of *originarii*, that an *entire estate shall be deprived of tillage* by transferring a small portion thereof to the purchaser of the slaves."¹

It is the question of tillage, the preservation of agricultural production, that looms largest, and to maintain agricultural productivity force was required. Thus the agricultural slave as well as the free tenant farmer was bound to the impoverished soil—and this is the solution of the colonate problem offered in this work, a solution which I trust will stand the test of time.

VLADIMIR G. SIMKHOVITCH

¹ *C. J.*, xi, 48, 7.

Digest of Justinian, show that this condition continued to the third century; and the jurists are more explicit than any of the preceding writers in describing the condition of the tenant farmers or *coloni* of their times. The *coloni* to whom the Digest referred were unquestionably freemen in every respect. They cultivated their land according to the terms of a five-year lease and paid a money rent. They were perfectly free to give up their holdings at the expiration of their leases and go any place they desired. Proprietors were forbidden to make any attempt to retain them on their estates against their will.

But a century later the Theodosian and Justinian Codes present a picture of a *colonus* of a wholly different character. The *colonus* appears there as a tenant attached to the estate of his landlord in perpetual and hereditary bonds. It is true that he had retained certain characteristics of a freeman. He could contract a legal marriage, he might become a soldier or a priest with the consent of the proprietor, and he was permitted to resort to the courts of law, even against his landlord, under certain contingencies. But under no circumstances was he allowed to sever the bonds which held him to the estate on which he was born. If he tried to escape he was brought back in chains and punished like a runaway slave. Anyone who sheltered him as a fugitive was heavily fined. And all the force of the administration was bent toward restoring him to his native fields, even though he had succeeded in escaping detection and establishing himself elsewhere for thirty years or more.

The mystery of the origin of the serf-colonate, as baffling as it is important, has called forth the best efforts of many of the leading scholars in economic and legal history of the past hundred years. "Nulle question peut-être," says a noted French savant,¹ "ni historique ni juridique, n' a fait

¹ Beaudouin in the *Nouvelle revue historique de droit français*, vol. xxxi (1897), p. 697.

naitre plus de systèmes ni écrire plus de pages." Classical works have been scanned with the most meticulous care in order to discover any information which might throw some light on the subject. Epigraphical expeditions have been organized in the hope of discovering new inscriptions which might be able to fill the gaps which the extant writings of antiquity have left. Fairly consistent accounts have been given by many writers of the gradual deterioration in the condition of the tenant farmer preceding their legal attachment to the soil. But the cause of the *adscriptio glebae* remains as much an enigma as ever.

Explanations of all sorts have been offered to account for the origin of the colonate, but the theories which have received the most attention fall into two main types. One group of scholars has searched assiduously for a prototype of the colonate; while the other group has sought to connect the colonate legislation with the administration of taxation after the reforms of Diocletian. The colonate has been related by the first group to dependent relationships which existed in early Italy and Greece, in Egypt, Asia Minor, Germany, and Gaul; and it has been ascribed to the supposed semi-servile status of barbarian settlements in the northern provinces of the Empire in the second and third centuries of our era. Yet even if these earlier dependent classes could be shown to be far more similar to the coloni of the Codes than the meagre information which is available concerning them seems to warrant, it would still remain to be proved that the colonate was formed in direct imitation of an earlier type of servile tenure, and not due to causes and conditions of the time. And supposing that this could be done, the problem would not yet be solved, but merely be removed one step further back; for it would then be necessary to explain the *raison d'être* of the earlier servile status.

The theory that the colonate arose out of the necessities

of tax administration, while it contains certain elements of plausibility, fails to be completely satisfactory in accounting for such a revolutionary change as the transformation of the free tenantry into a semi-servile class bound to the soil. A large and reliable revenue was indeed absolutely necessary to meet the cost of maintaining the greatest empire the world has ever known. Yet for centuries the administration had found the tribute sufficient to meet its needs without proving an insupportable burden to the tax-payers. The theorist who would prove that the coloni were attached to the soil to facilitate the collection of taxes will not have established an acceptable theory simply by showing that an intimate relation existed between the adscription of the coloni and the administration of taxation; for he still has the more important task of explaining why taxation weighed so heavily upon the citizens of the late Roman Empire that the old system of tax collection proved inadequate and that it was necessary to resort to methods altogether out of harmony with the whole character of Roman institutions; and if he would follow this to its logical conclusion he would be brought face to face with the problem of the decay of Roman civilization itself.

It seems to the writer that the adscription of the tenantry to the soil can only be properly understood when it is considered in close connection with the causes which led to the decline of the Roman Empire. Previous types of servile tenure may have had some influence in moulding the exact form which the colonate assumed. The exigencies of taxation may have been the actual occasion which led a worried emperor to take the drastic step of binding the coloni to the soil. But had the Empire been in a vigorous condition no such measure would ever have been considered. No nation has ever had greater respect for law and custom than the Romans, and the arbitrary creation of a serf class

would have been unthinkable except to meet a supreme emergency. And this supreme emergency, in the opinion of the writer, was no less a crisis than the threatened débâcle of ancient civilization itself.

In the following pages, after a brief account of the condition of the coloni as they are described by the Codes, the writer will present in some detail the various theories which have been advanced in explanation of the origin of the colonate and the classical and epigraphical texts upon which these theories are based. Such a review of the theories of the colonate has not been made since Heisterbergk's *Entstehung des Colonats*¹ in 1876; and as much new material has been discovered in Africa and Egypt in the past two generations modern scholars have been able to deal with the problem of the origin of the colonate considerably more adequately than Heisterbergk and his predecessors. In the last two chapters the writer will trace the history of the Roman tenantry and show how their condition was affected in the course of time by what appears to have been a decline in the fertility of the soil, first in Italy and later in the provinces. Finally attention will be called to the sources which seem to point to the fact that the soil of the Empire was becoming completely exhausted in many districts; and the thesis will be presented that the coloni were bound to the soil to enforce the cultivation of the fields which did not yield a large enough product to induce cultivation for the sake of individual profit and which would otherwise have been deserted—a disaster of such serious consequences that it threatened the continued existence of the Roman Empire.

Grateful acknowledgment must be made of the writer's indebtedness to Professor Simkhovitch, at whose suggestion this study was made, and whose teachings have been the source of many of the writer's ideas. He has shown an

¹ Pp. 1-62.

unflagging interest in the work and has been most generous in giving his time in advice and criticism. Professor Donald MacFayden of Washington University has read several chapters of the manuscript and has made many valuable suggestions. The author is also indebted to Professor Harrison R. Steeves and Dr. Emery E. Neff of the English Department of Columbia University, to Professor Steeves for coining the word "adscription" and to Dr. Neff for helpful suggestions.

ROTH CLAUSING

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and bread and circuses for the rabble. The result was that although the surplus furnished by the productive classes of the Empire was very considerable the requirements of the administration and of the parasitic classes were so great that the productive capacity of the Empire was always taxed to the limit.

The time eventually came when the returns from agriculture, the most vital form of production, began to decline. The soil which had responded so long with bountiful harvests began to show the results of the heavy tribute which did not permit the conservation of the elements of fertility. As long as the decline of the productivity of the soil was merely local it could be met by securing a part of the surplus from other districts. But by the fourth century the decadence of agriculture had become so widespread that it threatened the great imperial economy itself which Rome had constructed. To arrest this decline, to induce the cultivation of the fields by encouragement or by force, to prevent the exhausted soil from turning into a barren desert or a malarial marsh was the essential object of the emphyteutic and *ἐπιβολή* legislation; and it was precisely the same cause which led to the adscription of the tenantry to the soil in the perpetual bonds of the colonate. At approximately the same time, as writers from the time of Carl Hegel have pointed out,¹ the industrial classes were similarly bound to their *collegia*. The decline in the yield of the land tax had compelled the government to recoup itself by levying heavier taxes on industry. The attempt of the industrial classes to escape their new obligations led the administration to take the same restrictive measures against them that it had against the peasantry.² The exhaustion of the soil in so

¹ Cf. *supra*, pp. 53-54, 55, 96, 102, 110, 132, 136, 183.

² Cf. Brown "State Control of Industry in the Fourth Century," *Pol.*

many districts of the Empire was proving a fatal malady which affected the whole body politic. The legislation of the Codes was so drastic because a desperate situation was to be met; and this legislation was effective in keeping an agricultural population and somehow maintaining agricultural production.

Sci. Quart., vol. ii (1887), pp. 497, 500-502. For the complete list of references see Levasseur, *Histoire des classes ouvrières avant 1789*, 2nd Ed. (Paris, 1900), vol. i, pp. 83-88.

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¹ The references included in this bibliography have been limited to those which bear upon the main argument of the dissertation. In the case of all other books and articles, to which reference has been made, the full title has been placed in the footnote to the citation.

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