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# XXXI.27 Changes that occurred in high offices and in the fiefs

- The Spirit of Law - Book XXXI. Theory of feudal laws among the Franks, in their relation to the transformations in their monarchy -

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It seemed that everything took on a particular vice and became corrupt at the same time. I have said that in the earliest times several fiefs were alienated in perpetuity, but these were individual cases, and the fiefs in general still preserved their own nature ; and if the crown had lost fiefs, it had substituted others. I have further stated that the crown had never alienated high offices in perpetuity. [1]

But Charles the Bald made a general statute that affected high offices and fiefs equally : he established in his capitularies that counties [2] would be given to the count's children, and would have this rule also to apply to fiefs.

We shall see presently that this statute received a greater extension, such that the high offices and fiefs passed on to more distant relatives. From this it followed that most lords, who were immediate dependents of the king, would henceforth be only mediate dependents of the king. These counts, who used to dispense justice in the king's appellate courts, these counts who led free men into war, stood between the king and his free men, and the authority was again removed by one degree.

Furthermore, it seems from the capitularies that the counts had benefices attached to their counties, and vassals under them. [3] When the counties were hereditary, these vassals of the count were no longer immediate vassals of the king ; the benefices attached to the counties were no longer benefices from the king ; the counts became more powerful, because the vassals they already had put them in a position to obtain others.

To realize fully the weakening that resulted from this at the end of the second dynasty, one has only to look at what happened at the beginning of the third, when the multiplication of sub-fiefs caused the great vassals to despair.

It was a custom of the realm that when the eldest had given shares to their younger siblings, those siblings paid a homage for them to the eldest, so that the dominant lord now held them only as a sub-fief. [4] Philip Augustus, the duke of Burgundy, the counts of Nevers, Boulogne, St. Paul, Dampierre, and other lords, declared that henceforth, whether the fief were divided by succession or otherwise, the whole would always remain under the same lord without any intermediate lord. [5] This ordinance was not generally followed ; for as I have said elsewhere, it was impossible in those times to make general ordinances ; but several of our customs conformed to it.

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[1] Some writers have said that the county of Toulouse had been given by Charles Martel, and came down from heir to heir until the last Raymond : but if that is so, it was the effect of some circumstances that could persuade the choice of the counts of Toulouse among the children of the last possessor.

[2] See his capitulary of the year 877, tit. 53, art. 9-10 *apud Carisiacum* ; this capitulary relates to another of the same year and place, art. 3.

[3] Capitulary III of the year 812, art. 7, and the one of the year 815, art. 6 on the Spanish ; *Recueil des Capitulaires*, book V, art. 288, and capitulary of the year 869, art. 2, and that of the year 877, art. 13, Baluze ed.

[4] As appears in Othon de Frisingue, *Gestes de Frederic*, book II, ch. xxix.

[5] See the ordinance of Philip Augustus, year 1209, in the new collection.