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# XXXI.17 Something particular about the election of kings of the second dynasty

- 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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We see in the formula [1] of Pépin's consecration that Charles and Carloman were also anointed and blessed, and that the French lords committed themselves under pain of suspension and excommunication never to elect anyone of any other lineage. [2]

It appears from the testaments of Charlemagne and Louis the Debonaire that the Franks chose among the king's children, which relates very well to the clause above ; and when the empire passed into another house than that of Charlemagne, the faculty of election, which was limited and conditional, became pure and simple, and the old constitution was being left behind.

Pépin, aware he was approaching his end, convoked the ecclesiastical and lay lords in Saint-Denis, and divided his realm between his two sons Charles and Carloman. [3] We do not have the acts of this assembly, but we find what took place there in the author of the old historical compendium published by Canisius, [4] and in that of the *Annals of Metz*, as Mr. Baluze has observed [5] ; and I see in them two more or less contradictory things : that he made the division with the consent of the grandees, and then that he did it by paternal right. This proves what I have said, that the people's right in this dynasty was to elect in the family ; it was properly speaking more a right to exclude than a right to elect.

This sort of right of election is confirmed by the records of the second dynasty. Such is this capitulary of the division of the empire that Charlemagne is making among his three children, where, after defining their portions, he says that "If one of the three brothers has a son, such as the people wish to elect to succeed to the kingdom of his father, his uncles shall give their consent." [6]

This same provision is found in the division which Louis the Debonaire made among his three children, Pépin, Louis, and Charles, in 837 in the assembly of Aix-la-Chapelle [7] ; and also in another division by the same emperor made twenty years earlier between Lothaire, Pépin, and Louis. [8] We can also see the oath made by Louis the Stammerer in Compiègne when he was crowned there : "I, Louis, appointed king by the mercy of God and the election of the people, do promise...." [9] What I am saying is confirmed by the acts of the council of Valence held in the year 890 for the election of Louis son of Boson to the kingdom of Arles. [10] There they elect Louis, and give as the principal reasons for his election that he was of the imperial family, [11] that Charles the Fat had conferred on him the dignity of king, and that the emperor Arnold had invested him with the scepter and the ministry of his ambassadors. The kingdom of Arles, like the other dismembered or dependent kingdoms of Charlemagne's empire, was elective and hereditary.

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[1] Vol. V of *Historiens de France par les Pères bénédictins*, p. 9.

[2] *Ut nunquam de alterius lumbis regem in ævo præsumant eligere, sed ex ipsorum* (*ibid.*, p. 10).

[3] In the year 768.

[4] Vol. II, *Lectiois antiquæ*.

[5] Edition of the capitularies, vol. I, p. 188.

[6] In capitulary I of the year 806, Baluze ed., p. 439, art. 5.

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[7] In [Melchior] Goldaste, *Constitutiones imperiales*, vol. II, p. 19.

[8] Baluze ed., p. 574, art. 14. *Si vero aliquis illorum decedens, legitimos filios reliquerit, non inter eos potestas ipsa dividatur, sed potius populus pariter conveniens, unum ex eis quem Dominus voluerit, eligat ; et hunc senior frater in loco fratris et filii suscipiat.*

[9] Capitulary in the year 877, Baluze ed., p. 272.

[10] In *Conciles du P. Labbe*, vol. IX, col. 424, and in Dumont, *Corps diplomatique*, vol. I, art. 36.

[11] By the women.