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# XXXI.23 That free men became qualified to own 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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I have said that free men went to war under their count and the vassals under their lord. In that way, the orders of the state counterbalanced each other ; and although the leudes had vassals under them, they could be contained by the count, who was at the head of all the free men in the monarchy.

At first these free men could not petition for a fief, but later on they could [1] ; and I find that this change took place in the interval between the reign of Gotram and that of Charlemagne. I will prove it by the comparison we can make of the Treaty of Andely [2] made between Gontram, Childebert, and queen Brunhilde, the division [3] made by Charlemagne to his children, and a similar division made by Louis the Debonaire. These three acts contain approximately the same provisions with respect to vassals ; and as they are settling the same points, and more or less in the same circumstances, the spirit and the letter of these three treaties turn out about the same in this regard.

But insofar as free men are concerned, there is a capital difference between them. The treaty of Andely does not say that they could petition for a fief, whereas we find in the divisions of Charlemagne and Louis the Debonaire express clauses authorizing them to petition for them : which shows that since the treaty of Andely a new practice was being introduced by which free men had become eligible for this great prerogative.

This must have happened when, Charles Martel having distributed Church properties to his soldiers, and having given them partly as fief and partly as allod, a sort of revolution took place in feudal laws. It is likely that the nobles who already had fiefs found it more advantageous to receive new presents as allods, and that free men found themselves still only too happy to receive them as fiefs.

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[1] See what I had said above in book XXX, last chapter, towards the end.

[2] In the year 587, in Gregory of Tours, book IX.

[3] See the following chapter where I speak more at length on these divisions, and the notes where they are cited.