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# XXXI.28 On the nature of fiefs since the reign of Charles the Bald

- 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 Charles the Bald, when the possessor of a high office or a fief left a son when he died, wanted the office or fief to be given to him. It would be difficult to follow the progress of the abuses that resulted from this, and of the extension that was given to this law in each country. I find in the books of fiefs that at the beginning of emperor Conrad II's reign, the fiefs in the countries of his domination were not passed down to grandsons [1] ; they only passed to that child of the last possessor whom the lord had chosen [2] ; thus fiefs were given by a sort of election which the lord made among his children.

I have explained in chapter XVII of this book how, in the second dynasty, the crown came to be in certain respects elective and in certain respects hereditary. It was hereditary because the kings were always chosen from that dynasty, it was hereditary also because the children succeeded ; it was elective because the people chose among the children. As things always come about little by little, and a political law always has some connection to another political law, they followed [3] for the succession of fiefs the same spirit they had followed for the succession to the crown. Thus fiefs passed to the children both by right of succession and by right of election ; and each fief came to be, like the crown, elective and hereditary.

This right of election in the person of the lord was no longer current [4] in the time of the authors of the books of fiefs, [5] which is to say under the reign of the emperor Frederick I.

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[1] Book I, tit. 1.

[2] *Sic progressum est, ut ad filios deveniret in quem Dominus hoc vellet beneficium confirmare, ibid.*

[3] At least in Italy and in Germany.

[4] *Quod hodie ita stabilitum est, ut ad omnes æqualiter veniat*, Book I of the Fiefs, tit. 1.

[5] Gerardus Niger and Aubertus de Orto.