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XXXI.26 Another change that affected 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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In the time of Charlemagne one was obliged under great penalties to show up when called to any war whatever ; no excuses were accepted, and the count who exempted anyone would himself have been punished. [1] But the treaty of the three brothers [2] placed a restriction on this [3] which, so to speak, took the nobility out of the king's hand : they were no longer obliged to follow the king to war except when that war was defensive. They were free, in others, to follow their lord, or to attend to their business.

The death of a hundred thousand Frenchmen in the battle of Fontenay [4] made what was still remaining of the nobility think that they would ultimately be exterminated by their kings' private wars over their divisions, and that their ambition and their jealousy would cause the spilling of all the blood still left to shed. They made the law that the nobility would be required to follow princes to war only when it was a matter of defending the state against a foreign invasion. It was in effect for several centuries. [5]

[1] Capitulary of the year 802, art. 7, Baluze ed., p. 365.

[2] *Apud Marsnam*, year 847, Baluze ed., p. 42.

[3] *Volumus ut cujuscumque nostrum homo in cujuscumque Regno sit, cum seniore suo in hostem, vel aliis suis utilitatibus pergat, nisi talis Regni invasio quam Lamtuveri dicunt, quod absit, acciderit, ut omnis populus illius Regni ad eam repellendam communiter pergat*, art. 5, *ibid.*, p. 44.

[4] [Battle of Fontenoy-en-Puisaye, 25 June 841.]

[5] See the law of Guy king of the Romans, among those that have been appended to the Salic law and the *Leges Langobardorum*, tit. 6, §2 in Echard.