

mined (1). It appears, however, from the learned researches of a modern writer,* to have been a fundamental principle of the French Monarchy, that every person who held a military command in chief, was, of right, entitled to a civil Jurisdiction over all whom he led to war (2). Justice, therefore, was distributed by every feudal Seigneur to his vassals, within the limits of his Fief, whether he was a layman or an ecclesiastic, for he led them in person against the enemy, if he was a layman, and by his substitute (*advocatus*) if he happened to be an ecclesiastic, (3) and, upon the same principle, the *Liberi* or tenants of allodial estates who were led to war by the Dukes and Counts were subject to *their* jurisdiction. (4) The rule of decision, however, in every court was the general Law of the state, and the King, being the acknowledged head of the Government, in all matters, civil and military, all proceedings were in his name. (5)

THE Dukes, the Counts and the Seigneurs, in their respective jurisdictions, originally decided causes in person, (6) but they, afterwards, entrusted this part of their duty to others. The officer who was appointed for the purpose by a Seigneur, was sometimes, called a *seneschal*,† but, most commonly, a Bailiff which, in the language of those days, imported a guardian or protector of Justice, (7) and those who were named by the Dukes and Counts, were called Viscounts, Prevosts, Viguiers and Chastelans. (8) But in all their Jurisdictions, an usage, which derived its origin from the forests of Germany, was continued. Neither the Dukes, the Counts nor the Seigneurs, nor any of their officers decided alone: They assembled in their courts a kind of assize composed of their vassals, to the number of twelve, (9) who were, principally, the officers of their respective courts, and by those persons (who as vassals were the equals of the parties whose causes were there tried and thence called Peers)

(1) Robertson's Charles V. vol. 1st. p. 304.
* Montesquieu.

(2) Montesquieu, lib. 30, cap. 18—Répert. 8vo. vol. 25, p. 6. Loyseau des Seigneuries, cap. 1st. sect. 72 & 73.

(3) Montesquieu, lib. 30, cap. 17, vol. 2d. p. 377.

(4) Montesquieu, lib. 30 cap. Répert. vol. 6, p. 8—Pro. edit.

(5) Montesquieu, lib. 30, cap. 17.

(6) Dictionnaire de Jurisprudence, vol. 3d, p. 18, col. 1st.

† The title of Seneschal imported "an officer of the household"—Viscounts were said

to be "quasi comitum vicem gerentes"—Prevosts "quasi prepositi iudicando"—Viguiers "quasi vicarii comitum"—and Chastelans "quasi castrorum custodes"—Loyseau de l'Abus de Justice des Villages, p. 6, quod vide.

(7) Ency. Method. verb. "baillif," vol. 1st. p. 710. Dict. de Droit, verb. "baillif." Loyseau de l'Abus de Justice des Villages, p. 6, and Loyseau des Offices, p. 4 & p. 349.

(8) Loyseau de l'Abus de Justice des Villages, p. 6.

(9) Montesquieu, book 30, cap. 18, vol. 2d. p. 381 & 382.