cised as their exclusive privilege the right of deciding all civil causes, in which any of their body was a party, or was in any manner interested, and all criminal prosecutions, in which the defendant either was, or asserted himself to be, a clerk; in causes where none but laymen were concerned, they claimed and exercised a similar privilege for various extraordinary reasons—in matters of contract, because contracts were then usually enforced by the oath of the parties—in all testamentary cases, because the deceased having left his body to the Church for sepulture, the execution of his Will, by the Church, was a necessary consequence, inasmuch as it concerned the repose of his soul(1)—in all matrimonial cases, because marriage was a Sacrament—and in all cases in which a widow or an orphan was a party, because it was the duty of the Church to protect such characters. In other cases the same privilege was claimed for reasons which were not less extraordinary. If an individual resisted their authority he was excommunicated, and upon his submission a pecuniary fine was imposed for reconciliation with the Church, which the temporal Judge, in whose Jurisdiction he resided, was required to enforce by his authority, under pain of personal excommunication, and the interdiction of the whole District over which he presided, in case of disobedience.(2)

The first attempt, by the King's Courts, to reduce the exorbitant pretensions of the Clergy, was the appeal "*de Deni de Justice*,"(3) which was similar to the appeal "*de Défaut de Droit.*" This was daily extended, by construction, to a great variety of cases, and was followed by the "*Appel comme d'abus*," which, in the nature of a prohibition, suspended all proceedings, and was allowed, at any stage of a cause (4), to all who complained that the Judge of the Spiritual Court had exceeded his authority by any proceedings, contrary to the canons of the Church, *recognized in France*, or to the law of the land in any respect (5). This remedy was in practice long before the year 1539, but in that year it was formally declared to be the law of France, by an ordinance of Francis the First, "*pour la réformation et abréviation des procès*" (1). By this ordinance the Ecclesiastical Judges were also forbid to cite before them any of the King's lay subjects, in any matter whatever, except those that were strictly spiritual, and the King's lay subjects were forbid to institute any suit of a temporal nature before any Court of ecclesiastical jurisdiction (2).

Thus the Crown of France, by persevering in one great plan, with indefatigable exertion and continued prudence, suspending its attempt when the conduct of the clergy or any formidable conspiracy of the greater seigneurs required it, and resuming them when they were feeble or remiss, became once more the Fountain of Justice. That part of its original jurisdiction, over causes and persons, which the clergy and the seigneurs had usurped, was regained, and the entire proceedings of the Seigneurial and Ecclesiastical Judges, in all causes, civil and criminal, spiritual and temporal, which were legally subject to their inquiry, were brought before the review and control of the Sovereign, through the medium of his Courts.

Upon the re-establishment of the royal authority, the local customs of France were so numerous and so various that there were not two seigneuries throughout the whole kingdom entirely governed by the same law (3). Some of the causes of this amazing diversity have been traced in the different usages of the Barbarians, which were introduced by the original conquest of Gaul—in that peculiar principle of their jurisprudence, which permitted each individual to make choice of the law by which he thought proper to be governed, and the consequent existence, not only of the customs of each particular tribe, but of the Theodosian Code especially among the clergy—in the introduction of the feudal system, and the distinctions which it created between feudal and allodial property—in judicial combats, which were necessarily introductive of new usages created by their several and various issues—in the usurpations of the Seigneurs, the means which they severally adopted to support them, and the independent administration of justice within

(1) Loyseau, des Seigneuries.
(2) Fleury's Instit. du Droit Canon, vol. 2, pp. 9 & 10.
(3) Dict. de Jurisprudence, vol. 1, p. 292.
(4) L. C. Denizart's Preliminary Discourse to Vol. 1, p. 73.
(5) Fleury's Instit. du Droit Canon, Vol. 2, p. 12.

(1) Dict. de Jurisp., Vol. 1, p. 279; Traité de l'Abus, vol. 1, cap. 2, p. 11, Ed. of 1778.
(2) Ordonnances de Neron, Vol. 1 p. 162, Loyseau des Seigneuries, cap. 15, sec. 75, 76 and 77.
(3) Montesquieu, Lib. 28, cap. 45.