

families, the lands, titles and offices, which, before, they had enjoyed for life only. They usurped the sovereignty of the soil, with civil and military authority over the inhabitants. They granted lands to their immediate tenants, who granted them over to others by subinfeudation, and, although they professed to hold their Fiefs from the Crown, they were, in fact, independent. Strong in power, they exercised, in their several territories, every Royal prerogative.—They coined money—fixed the standard of weights and measures—granted safeguards—entertained a military force—imposed taxes—and administered justice in their own names, and in Courts of their own creation, which decided ultimately in all cases, civil and criminal, not according to the written laws of the Kingdom, but according to the unwritten customs and usages of the District over which they respectively claimed and exercised Jurisdiction.(1.)

By these usurpations of the Seigneurs, the foundations of the ancient laws of France were gradually undermined. But the demolition of this venerable fabric was greatly promoted by the profound ignorance which pervaded the kingdom during this period. Few persons, except ecclesiastics, could read, and, hence, the Theodosian Code—the Laws of the Barbarians, which had been reduced to writing, and the Capitulars sunk imperceptibly, but equally, into oblivion. The clergy also furthered its destruction by adopting, in their jurisdictions, the Canon Law which they had begun to compile, early in the ninth century, and the crown completed it by the publication of the ever-memorable Edict of Pistes, so-called from the City of Pistes, where it was promulgated in the year 864, by Charles the Bald, one of the weakest of the weak descendants of Charlemagne. By this Edict, in the mistaken policy of conciliation, the unwritten usages of each Seigneurie were ratified and declared to be law; a declaration which may be considered not only as the efficient cause of the final extinction of the ancient Law, but of the permanent establishment of that infinite variety of customs, which obtained in France until the late Revolution. (2)

The authority of the Crown of France, at its ultimate point of depression, about the close of the tenth century, was merely nominal, the Royal

Jurisdiction being confined to the Royal Domain, which comprehended no more than four cities, in which the King was obeyed as feudal Lord, and not as Sovereign; (1) on the other hand, the power of the Seigneurs at this epoch was enormous—their tyranny exorbitant. The whole country was laid waste by the wars which they waged against each other, and their own vassals were reduced to an actual state of slavery, under the denomination of *serfs* and *hommes de poite*, or under the pretended rights of personal service and *corvée*, were treated as if, in fact, they had been reduced to that wretched condition. (2). By this state of anarchy, those who were yet in the possession of allodial property were, in the first instance, induced to annex what they held to the jurisdiction of some Fief, and to subject themselves to feudal services, for the immediate safety of their persons and the defence of their estates, and so generally was this the case that it gave rise to the maxim "*Nulle terre sans Seigneur*," which at length became the universal Law of France. (3). But as the Seigneurs could not, in every instance, protect their dependants against the incursions of their neighbours, and as the feudal burthens were, themselves, insufferable, many vassals abandoned their Lords, by degrees, and sought protection in walled towns where they united and entered into armed associations for mutual defence. (4)

These associations, which began during the reign of "Louis le Gros," about the year 1109, and were called "*communes*," could not long remain without some government; regulations therefore were made, and usages adopted by each *commune* for the control of its subjects, and being asylums for all who were inclined to be peaceable, and barriers against the common enemy (the Seigneurs), the crown afforded them every assistance in its power—conceded to them the right of enacting laws for their own internal government, and enfranchised the inhabitants. (5)

The Seigneurs plainly saw that the institution of *communes* was adverse to their interest, yet they could not prevent the increase of such associations; they even found themselves com-

(1) Robertson's Charles V, vol. 1, p. 366.

(2) Dictionnaire de Jurisprudence, vol. 3, pp. 16 & 17.

(3) Robertson's Charles V, vol. 1, p. 223. Dict. de Jurisp. vol. 3, p. 16; Fleury, p. 61; Robertson's Ibid., p. 18.

(4) Dict. de Jurisp. vol. 3, p. 17.

(5) Dict. de Jurisp. vol. 3, p. 17. Répert. vol. 13. Verbo "Commune."

(1) Fleury, 51 & 52. Hargrave Notes on Coke's Littleton, p. 368a.

(2) Montesquieu, Lib. 28, cap. 4; vol. 2, p. 243.